

CRA-S-2888-SB-2009

-1-

304

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2888-SB-2009

Pronounced on: 5th March 2025

Devender

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manpreet Singh, Legal Aid Counsel
for the appellant.

Mr. Harkesh Kumar, AAG Haryana.

HARPREET SINGH BRAR, J.

1. The present appeal is preferred against judgment of conviction and order of sentence dated 10.10.2005 passed by learned Additional Sessions Judge, Fast Track Court, Sonapat in FIR bearing no. 15 dated 03.02.2003 registered under Sections 399, 402, 307, 412, 467, 468, 471, 420 Indian Penal Code at Police Station Sadar, Sonapat whereby the appellant was convicted and sentenced as under:

Offence	Sentence
Section 411/34 of the IPC	Rigorous imprisonment for 1 year and a fine of Rs. 2000/- with default mechanism

2. The facts, tersely put are that on 03.02.2003, the appellant along with other co-accused was apprehended by the Investigating Officer after a secret information was received by the officer that the accused were a gang of offenders and that they were on their way to commit offences as mentioned above. On searching, they were located in a deserted dharamshala and were

**CRA-S-2888-SB-2009****-2-**

planning to commit dacoity at a petrol pump nearby, with use of weapons. When they were asked to surrender, firing took place from their side however, the police managed to get a hold of them. Certain weapons were seized from them and they were also found in possession of one Santro and one Alto car. Arms were recovered from the co- accused but nothing was recovered from the possession of the appellant.

3. The learned trial Court framed charges under Sections 307/399/402/412/467/468/471 of IPC against all the accused persons and Section 25 of the Arms Act against only 3 of them, to which the accused pleaded not guilty and claimed trial.

4. The prosecution examined as many as 17 witnesses to prove its case. Thereafter, the statement of the appellant under Section 313 of the Cr.P.C. was recorded, wherein the appellant pleaded false implication, however, no defence was led by the defence.

5. After taking into account all the material on record, the appellant-accused was convicted by the learned trial Court vide judgment dated 10.10.2005 only under section 411 of IPC.

6. Learned amicus curiae counsel for the petitioner assails the judgment of conviction on the ground that the learned trial Court mechanically decided the case without due application of mind and not recording any reasoned and concrete observations. The appellant – accused has been falsely implicated in the present case. The appellant further contends that no evidence has been found against him to show that he was in conspiracy to commit dacoity and he was fairly acquitted of those charges, however even conviction under

**CRA-S-2888-SB-2009****-3-**

by the prosecution that keys of Alto car were recovered from him. There are discrepancies in the statements of the prosecution witnesses, however, the learned Court below has erred in holding that these discrepancies are minor in nature. The contradictions in the testimonies of the prosecution witnesses are clearly material and as such, the appellant – accused should be given the benefit of the doubt. Lastly the impugned judgement of conviction is based on surmises and conjectures. The inferences do not satisfactorily prove the case of the prosecution.

7. Learned State Counsel opposes the appeal filed by the appellant on the ground that the charge for the offence punishable under Section 411 of the IPC has been clearly and unimpeachably proved as the appellant could not produce any document of these vehicles, hence the said vehicles are stolen properties. The learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, and therefore, no interference is warranted by this court in the instant appeal.

8. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it appears that there is nothing in the judgement of the learned trial Court to indicate perversity or misreading of evidence in its judgement. Qua the submission advanced with respect to the material contradictions and improvements in the testimonies of the prosecution witnesses, this Court finds that the discrepancies were only minor in nature which are bound to occur as no true witness can possibly escape from making some discrepant details.

9. To see whether Section 411 IPC is made out or not, the ingredients

**CRA-S-2888-SB-2009****-4-**

1. The property must have been stolen,
2. The accused must have received, retained, bought or sold the stolen property,
3. The accused must have known or had reason to believe that the property was stolen,
4. The act of receiving, retaining, buying or selling the stolen property must have been done dishonestly.

10. In the present case, the property is proved to have been stolen by examination of witnesses PW-12 and PW-15 who deposed that FIRs were registered after the snatching of the cars. Moreover, no reasonable explanation could be afforded by the appellant as to how he had the possession of the cars. Since the cars were found in possession of the accused along with the appellant without the requisite documents, it was on them to prove that they did not know the cars were stolen properties. However, neither the same has been averred nor proved by the appellant. Hence, the ingredients of the offence are said to be proved as was held by the Trial Court. Hence the evidence on record is sufficient to affirm the guilt of the accused on the charge framed against him.

11. The Trial Court very carefully perused the charge of Section 412 Indian Penal Code and found it to be not proved beyond reasonable doubt on the logic that merely because the cars were found in their possession does not itself prove that it was obtained through dacoity. However, with regard to section 411 IPC, it could be rightly said that no plausible explanation has been tendered by the appellant. They did not possess any necessary documents of the cars like R.C., which shows knowledge on their part that the possession of the car was

the same knowledge.

12. In view of the facts and circumstances of the case, this Court finds that learned counsel for the appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present appeal and the same is dismissed. Since, as per custody certificate dated 04.03.2025, the appellant has already undergone entire sentence, his further custody is not required.
13. Pending miscellaneous application(s) if any, stand disposed of.
14. High Court Legal Services Committee is directed to pay remuneration to the amicus curiae, as per rules.

05.03.2025

Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No