



2025:DHC:11529



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on : 10.10.2025
Pronounced on : 17.12.2025
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+ **CRL.A. 637/2024**

TILAK @ NEPALI

.....Appellant

Through: Mr. Sanjeev Kumar Baliyan,
Advocate (DHCLSC) with Mr.
Nirbhay Sharma, Advocate with
appellant through V.C. from Rohini
Jail

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Ms. Shubhi Gupta, APP for State with
SI Rishi Kant

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CRL.A. 637/2024

1. The present appeal seeks to assail the judgment of conviction dated 11.03.2024 and order on sentence dated 15.04.2024 passed in the context of the FIR bearing No. 16089/2022 registered under Section 379 IPC at P.S. Safdarjung Enclave, South West.
2. The facts of the prosecution case as arising from the record are that on 10.06.2022, one *Pawan Kumar Sharma* went to Safdarjung Hospital along with his father on his two-wheeler for his father's treatment and parked the said two-wheeler near the OPD building of Safdarjung Hospital. He went



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inside the building with his father for treatment and at about 12.45 PM, upon coming out of the building, he found his two-wheeler missing from where he had parked it. He lodged the concerned E-FIR on Delhi Police Online Portal regarding theft of his *scooty* bearing no. DL-13SV-7530. The investigation was assigned to ASI *Subh Karan*, who reached the spot along with HC *Opin* and Ct. *Rajender*, got recorded statement of witnesses, and prepared the site plan (Ex. PW-3/A) at the instance of the complainant. Efforts were made to trace the stolen vehicle, but initially to no avail.

On 27.10.2022, HC *Netram Meena* was on picket duty along with PCR Z14 Alfa. HC *Opin* and HC *Rajender* were also on duty along with him. At about 8:30 PM, while they were checking vehicles, one two-wheeler bearing no. DL-13SV-7530 was stopped by them and checked, but upon the rider being asked to produce the relevant documents for the same, he was unable to do so. On checking the details of the said *scooty* on Zip Net, it was discovered to be the one stolen in the present case. The driver disclosed his name as *Tilak @ Nepali* (the appellant herein), and he was arrested by the I.O., HC *Net Ram Meena*. The two-wheeler was seized and deposited in the *Malkhana*.

Upon checking the previous involvements of the appellant, it was discovered by the police that the appellant is involved in 21 cases, out of which 7 were under Section 411 IPC. Accordingly, Section 413 IPC was added and after completion of investigation, the chargesheet was ultimately filed under Sections 379/411/413 IPC. The Trial Court framed charges against the appellant under the same provisions, to which he pleaded not guilty and claimed trial.

3. The prosecution examined 7 witnesses in support of its case. The



complainant/*Pawan Kumar Sharma* was examined as PW-2. ASI *Subh Karan*, to whom the investigation of the FIR was initially marked, was examined as PW-4. The main I.O. of the case, HC *Netram Meena*, who arrested the appellant and seized the two-wheeler in question, was examined as PW-1. HC *Rajender Kumar* and HC *Opin*, who joined the investigation with the I.O., were examined as PW-3 and PW-5 respectively. HC *Mandeep Yadav*, who was posted as the MHC(R) at P.S. Safdarjung Enclave at the relevant time, was examined as PW-6.

4. The complainant/*Pawan Kumar Sharma* (PW-2) deposed that on 10.06.2022, he accompanied his father to Safdarjung Hospital for his treatment and parked his *scooty* bearing no. DL-13SV-7530 near the OPD building. He accompanied his father inside the building and when he came out at about 12.45 PM, his *scooty* was missing from the place where he had parked it. He lodged the concerned E-FIR, whereafter the police contacted him and made efforts to trace the *scooty*. In October 2022, he was informed that his *scooty* had been recovered by the police, and after completion of formalities, he got the same released on *superdari*.

5. ASI *Subh Karan* (PW-4), the first I.O. of the case, deposed that on 10.06.2022, he along with HC *Opin* and Ct. *Rajender* reached the concerned spot after registration of the E-FIR, made inquiries from the complainant and prepared the site plan (Ex. PW-3/A) at his instance. He also recorded statements of witnesses and tried to trace the stolen vehicle. Later, the investigation of the case was marked to HC *Netram*.

6. The main I.O. of the case, HC *Net Ram Meena* (PW-1), deposed that on 27.10.2022, he along with HC *Opin* and HC *Rajender*, was performing picket duty along with PCR Z14 Alfa. Around 08.30 PM, while they were



checking vehicles, they stopped a rider (identified as the appellant herein) on a *scooty* bearing no. DL-13SV-7530. When asked, the rider could not provide the required documents for the *scooty* and offered excuses. Upon checking the *scooty*'s details on Zip Net, it was discovered to be the stolen property in the present case. The appellant was subsequently arrested vide arrest memo Ex. PW-1/B, and the *scooty* was seized vide memo Ex. PW-1/A. He further deposed that during the investigation; the appellant also facilitated the recovery of two other stolen motorcycles connected to other FIRs.

In his cross-examination, he stated that no CCTV cameras were installed near the spot where his team was conducting checks. He further specified that no public persons had gathered in the area, and there was only moving traffic; consequently, he did not make efforts to involve any public witnesses, as none were available to join the investigation.

7. The testimonies of HC *Opin* (PW-5) and HC *Rajender Kumar* (PW-3) corroborated the testimony of the PW-1 on all material particulars. One notable aspect of PW-3's testimony, however, is that he initially stated the number of the *scooty* in question to be "7065", and later corrected the same to "7530", stating that he had forgotten the same due to lapse of time.

8. HC *Mandeep Yadav* (PW-6), the MHC(R) posted at P.S. Safdarjung Enclave at the relevant time, brought the following conviction record of the appellant and exhibited the same as Ex. PW-6/A:-

- "i. FIR No. 209/2017, P.S. R. K. Puram, under Section 25 Arms Act
- ii. FIR No. 5084/2019, P.S. Narayana, under Sections 379/411 IPC
- iii. FIR No. 398/2019, P.S. Lajpat Nagar, under Sections 379/411 IPC
- iv. FIR No. 241/2019, P.S. R. K. Puram, under Section 25 Arms Act
- v. FIR No. 403/2017, P.S. R. K. Puram, under Sections 356/379 IPC"



9. The appellant's statement under Section 313 Cr.P.C. was recorded on 07.12.2023, and additionally on 12.02.2024, wherein he denied the allegations levelled against him and claimed that he had been falsely implicated in the present case by the police officials. However, he did not lead any defence evidence.

10. I have heard the learned counsels for the parties and gone through the record.

11. The complainant has stated that he discovered that his two-wheeler had been stolen when he came out of the hospital building at around 12:45 PM. He lodged the concerned E-FIR the same day, wherein the timing of commission offence has been mentioned as between 11:00 AM to 12:45 PM. The complainant himself is the registered owner of the *scooty* in question, he got the same released on *superdari*, and the identification of the said *scooty* has not been disputed.

12. The testimonies of the three witnesses to the arrest of the appellant and the recovery of the stolen two-wheeler (PW-1, PW-3, and PW-5) are consistent with each other. All three of them duly identified the appellant in Court and identified their respective signatures on the relevant documents such as the arrest memo, the seizure memo, the personal search memo etc. Nothing substantial to discredit the version of the prosecution was elicited in the respective cross-examinations of these witnesses.

13. The non-joining of public witnesses at the time of recovery of *scooty* stands adequately explained by the testimony of the concerned police witnesses, who are also the eyewitnesses to the recovery of stolen *scooty*. A perusal of the same shows that they have categorically deposed that no



public persons had gathered at the spot of recovery and that only moving traffic of vehicles was present. No CCTV camera was found installed at the spot. When the appellant was stopped as part of a routine check, the recovery of the two-wheeler was affected from his possession at the spot, upon obtaining confirmation from Zip Net that the said *scooty* was the stolen property in the present E-FIR.

14. It is worth noting that no suggestion was given by the appellant to the concerned police witnesses that he was not present near the spot of recovery. No such defence has been put forth by him in his statement under Section 313 Cr.P.C., either. No plea of *alibi* has been put forth.

15. The defence taken by the appellant in his additional statement recorded under Section 313 Cr.P.C., however, is that he was falsely apprehended by the police in the year 2022 in a theft case and the police has since planted several cases upon him. The Trial Court observed with respect to this submission that the same does not inspire confidence. The same was held to be untrustworthy in light of the previous involvement and conviction reports of the appellant, which revealed that the FIRs registered against him are from 2016 onwards, while the present case is of the year 2022.

16. Considering all the above, this Court is of the view that the evidence in the present case, especially the consistent as well as mutually corroborative testimonies of the concerned police witnesses, have proved beyond reasonable doubt that the appellant stole the complainant's concerned two-wheeler and dishonestly retained it, knowing it to be stolen property.

17. In the considered opinion of the Court, on overall appreciation of facts and evidence that has come on record, the impugned judgment of conviction



warrants no interference and the same is upheld.

18. Coming now to the order on sentence. Learned APP for the State handed over in Court an updated status report containing the appellant's other involvements and their current status. The same is directed to be taken on record and has also been reproduced below:-

S.No.	Police Station	FIR No.	Under Section(s)	Status
1.	Sarojini Nagar	107/2016	379/411 IPC	PE, NDOH 25.03.2026
2.	R.K. Puram	209/2017	25 Arms Act	Undergone
3.	R.K. Puram	403/2017	392/411 IPC	Undergone
4.	Sarojini Nagar	48/2018	380/411 IPC	Undergone
5.	Sarojini Nagar	38976/2018	379/411 IPC	Compounded
6.	R.K. Puram	555/2018	380/411 IPC	Undergone
7.	R.K. Puram	565/2018	379/411 IPC	Undergone
8.	R.K. Puram	16/2019	25 Arms Act	Misc. Appearance, NDOH 21.11.2025
9.	Naraina	80/2019	380/411 IPC	Absconder
10.	Naraina	5084/2019	379/411 IPC	Convicted
11.	Sarojini Nagar	96/2019	379/411 IPC	Compounded
12.	R.K. Puram	241/2019	25 Arms Act	Undergone
13.	R.K. Puram	35061/2019	379/411 IPC	Compounded
14.	K. M. Pur	34564/2019	379/411 IPC	Compounded
15.	Timar Pur	35864/2019	379/411 IPC	Compounded
16.	Sarojini Nagar	389/2019	379/411 IPC	Compounded
17.	Sarojini Nagar	20227/2022	379 IPC	Compounded
18.	SJ Enclave	16089/2022	379/413 IPC	Convicted
19.	R. K. Puram	56/2016	379 IPC	Discharged
20.	Adarsh Nagar	642/21	376/506 IPC	PE, NDOH 08.01.2026
21.	Ali Pur	102/24	283 IPC	Compounded

19. The above record reveals that the appellant is a habitual criminal who deals in stolen property by committing theft and knowingly receives/retains the same. Accordingly, the order on sentence passed by the Trial Court is also upheld and the present appeal is dismissed.

20. A copy of this judgment be communicated to the Trial Court as well as the concerned Jail Superintendent.



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CRL.M.A. 21339/2024 (under Section 467 BNSS read with Section 528 BNSS)

1. The present application has been filed by the applicant/appellant seeking clubbing of the sentence undergone by him in the present case with his subsequent conviction in another case. The applicant claims that he was subsequently convicted on 03.04.2024 in FIR No. 48/2018 registered under Sections 457/380 IPC at P.S. Sarojini Nagar. However, no further details are provided, and in fact, no arguments were addressed on the application.

Furthermore, the updated status report filed by the State rather shows that the appellant has already undergone the sentence in FIR 48/2008.

2. Accordingly, the present application is dismissed.

**MANOJ KUMAR OHRI
(JUDGE)**

DECEMBER 17, 2025

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