

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.691 of 2018**

Arising Out of PS. Case No.-106 Year-2016 Thana- PANAPUR District- Saran

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Hari Kishor Prasad son of Late Anjor Prasad @ Anjor Bhagat, Resident of
Village- Pakri Narottam, P.S.- Panapur, District- Saran at Chapra.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant : Mr. Dewendra Narayan Singh, Advocate
For the State : Mr. Shyed Ashfaque Ahmad, APP

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT**

Date : 22-07-2026

Heard learned counsel for the appellant and learned
A.P.P. for the State.

2. This appeal has been filed challenging the judgment of conviction dated 27.11.2017 and order of sentence dated 30.11.2017 passed in Sessions Trial No. 622 of 2016 arising out of Panapur P.S. Case No. 106 of 2016 whereby the sole appellant has been convicted under Section 414 of the Indian Penal Code and has been sentenced to undergo rigorous imprisonment for three years and pay a fine of Rs. 10,000/- and in case of default of fine, to further undergo rigorous imprisonment for one year.



3. The prosecution case, in brief, is that on secret information that this appellant has kept stolen motorcycle at his residence, the informant, along with other police personnel, reached the appellant's house and found one Hero Splendor Plus motorcycle parked at the door of house of this appellant and upon enquiry, he was unable to produce any document of the motorcycle. Accordingly, the stolen motorcycle was seized and appellant was arrested.

4. In this case, in order to bring home guilt of the accused, the prosecution has examined altogether six witnesses. P.W. 1, namely Nand Kishor Rai; P.W. 2, namely Lalan Singh and P.W. 3, namely Ayodhya Mauwar, are constables of the Special Armed Force and members of the raiding party and in their cross-examination, they have failed to furnish several details regarding the exact house and place of recovery. P.W. 4, namely Manoj Kumar Sah, is a police official and informant of the present case. P.W. 5, namely Krishna Deo Singh, is Investigating Officer of the case. P.W. 6, namely Akhilesh Kumar Ram, is seizure list witness and in his cross-examination, he has admitted that no recovery was made in his presence rather, he was called by P.W. 4/informant after seizure of the motorcycle in question. The prosecution has also adduced



documentary evidences, which are marked as:-

Exhibit 1	Seizure list.
Exhibit 2	Signature of appellant Hari Kishor Prasad
Exhibit 3	Recorded self-statement of the informant in the F.I.R.
Exhibit 4	Formal F.I.R.
Exhibit 5	Signature of seizure list witness, namely Akhilesh Ram (P.W. 6) on the seizure list.

5. On the other hand, the defence has not produced any oral or documentary evidence.

6. After hearing the parties, the learned trial court convicted these appellants and sentenced them, as indicated in the opening paragraph of this order.

7. On going through the rival submissions, evidences and upon perusal of the records, this Court finds that in this case, except P.W. 6, all prosecution witnesses are police personnel. No independent witness has been examined on behalf of the prosecution. There is material contradiction in the testimony of P.W. 1, namely Nand Kishor Rai; P.W. 2, namely Lalan Singh and P.W. 3, namely Ayodhya Mauwar, and they have failed to furnish several details about the exact house of the appellant, name of appellant's father and the place from where the seized motorcycle was recovered. Moreover, even as per prosecution case, the seized motorcycle was recovered from door of house of this appellant and not from inside the house. In



order to convict an accused under Section 414 of the Indian Penal Code it has to be shown that the seized article must be stolen. However, in the present case, there is no documentary or oral evidence brought on record by the prosecution to establish that the motorcycle which was allegedly recovered from the door of appellant's house is stolen. Out of the two seizure list witnesses, P.W. 6, namely Akhilesh Kumar Ram, has not supported the prosecution case and has stated in his testimony that he was called by the informant after seizure of the alleged motorcycle and another seizure list witness, namely Arvind Kumar, has never been examined and no explanation about the same has been provided.

8. For the aforementioned discrepancy and infirmity, I find that the impugned judgment of conviction dated 27.11.2017 and order of sentence dated 30.11.2017 are difficult to sustain.

9. In that view of the matter, the judgment of conviction dated 27.11.2017 and order of sentence dated 30.11.2017 passed by the learned 2nd Additional District and Sessions Judge, Saran at Chapra in connection with Sessions Trial No. 622 of 2016, C.I.S. No. 681 of 2016 arising out of Panapur P.S. Case No. 106 of 2016 are hereby set aside.

10. Appellant is acquitted of all the charges and is



discharged from the liability of the bail bond in connection with this case.

11. Accordingly, this appeal stands allowed.

12. Interlocutory application/s, if any, also stands disposed off.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
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