

Parsandi Vs. State

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Court : Allahabad

Decided On : Aug-13-1962

Reported in : 1963CriLJ344

Judge : Kailash Prasad, J.

Appellant : Parsandi

Respondent : State

Judgement :

Kailash Prasad, J.

1. Srimati Parsandi appeals against her conviction and sentence under Section 412, I.P.C.

2. On the night between 21st and 22nd January, 1961, a dacoity was committed by 11 or 12 dacoits in the houses of Harbans Singh and Bubhu Singh of village Milak Bhagwanpur, police station, Nagina, in which considerable property including a 'durrie' and a gramophone and some records were taken away by the dacoits. When a case in respect of the dacoity was registered at the police station Nagina, and the police started investigation, the police came to know that Naubahar Singh of village Shakhupur was a dacoit, harboured dacoits and kept dacoited property in his house. The police, therefore, arranged a raiding party and proceeded to village Shekhupur. When the party reached near the house of

Naubahar Singh, a bad-character was seen cleaning the barrel of his gun in front of Naubahar Singh's house. On seeing the police, that miscreant ran away. He was chased by the police, but could not be apprehended.

In the meanwhile, two persons emerged from the house of Naubahar Singh, Police gave a chase to them. Of the two persons who ran out from Naubahar Singh's house, one was caught by the police and the other made good his escape. It was Shabbir who was caught and the other man who could not be caught was Naubahar Singh. Thereafter the police party entered the house of Naubahar Singh. Smt. Parsandi, the appellant, is the wife of Naubahar Singh. She was in the house when the police entered into it. At the bidding of the police, she opened the locks of the kothas which were inside the house. Some boxes were found in those kothas. The boxes were locked. Smt. Parsandi opened those boxes with some keys which were in her possession. A 'durrie' a gramophone and some records that were recovered from the boxes opened by Smt. Parsandi were identified to be the property that was looted in the dacoity committed at the houses of Harbans Singh and Budhu Singh.

3. The picture that we get from the evidence of recovery witnesses, namely, Sri G.N. Seth (P.W. 5). Shanti Singh (P.W. 2) and Ram Swarup (P.W. 3) is to the effect that Smt. Parsandi opened the 'kothas' and the boxes as soon as the police asked her to do so. None of the recovery witnesses suggested that Smt. Parsandi demurred or was hesitant in opening the kothas and the boxes, although she could have easily said that the keys were with her husband, who ran away from the house as soon as he came to know of the arrival of the police. There is nothing to show that Smt. Parsandi knew or had any reason to believe that the property in the boxes which were kept in the kothas of her house were acquired during the course of a dacoity. The conduct of Smt. Parsandi in readily opening the kothas and the boxes, on the other hand, indicates that she had not the faintest suspicion that the articles that might be found therein were acquired by the commission of a dacoity.

When a male member goes out of a house, he generally leaves the keys with his wife. In the circumstances it appears that Naubahar Singh, on coming to know that

the police had arrived, suddenly left the house leaving the keys with his wife. The unsuspecting wife produced the keys before the Sub-Inspector and opened the kothas and the boxes. It may be that during the period that the keys of the kothas and the boxes were with Smt. Parsandi, she would be deemed to be in possession of the articles that were found in the kothas and inside the boxes, but from this temporary possession it cannot be said that she was aware of the contents and also knew that those contents were acquired by the commission of a dacoity, nor by keeping the keys at the bidding of her husband she could be deemed to have received those articles dishonestly.

4. The learned Counsel for the State argued that villagers do not keep gramophones and so Smt. Parsandi must have suspected, when her husband brought a gramophone, that it was acquired in the course of a dacoity. The argument is nullified by the very case of the prosecution that the gramophone was acquired in the course of a dacoity that was committed in village Milak Bhagwanpur. If villagers do not keep a gramophone, it should not have been in the houses of Harbans Singh and Budhu Singh, in village Milak Bhagwanpur. Gramophones are now very common and it is not unusual for a person residing in a village to keep a gramophone. Since the advent of radio few city dwellers keep gramophones. Gramophones have now moved into rural areas. There is no evidence as to the financial status of Naubahar Singh; nor was it suggested that he was too poor to purchase a gramophone. There is, therefore, no justification to infer that Smt. Parsandi had any sufficient reason to believe that the gramophone was obtained by commission of a dacoity, when Naubahar Singh brought it into the house.

5. In Indian rural society, particularly among the illiterate, the husband is a dominant partner. If such a husband brings dacoited or looted property into the house, the wife can neither prevent the husband from keeping the property in the house nor can throw it away. She, being a passive partner in life, has merely to acquiesce in the property being kept in the house even if she knows that the property was obtained in the course of a dacoity. Bare acquiescence in the receipt of stolen property is not the adoption of receipt so as to constitute receiving or retaining within the meaning of Section 412, I.P.C. The charge under Section 412,

I.P.C. cannot, therefore, be sustained against the appellant.

6. The appeal is allowed, and the conviction and sentence of the appellant are set aside. She is on bail. She need not surrender. Her bail bonds are discharged.

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