

State (Delhi Admn.) Vs. Partap Singh

State (Delhi Admn.) Vs. Partap Singh

SooperKanoon Citation : sooperkanoon.com/689990

Court : Delhi

Decided On : Feb-23-2005

Reported in : 118(2005)DLT464

Judge : R.S. Sodhi, J.

Acts : Indian Penal Code (IPC) - Sections 379 and 411

Appeal No. : Crl. A. 180/1981

Appellant : State (Delhi Admn.)

Respondent : Partap Singh

Advocate for Def. : None

Advocate for Pet/Ap. : Anil Soni, Addl. P.P

Disposition : Appeal dismissed

Judgement :

R.S. Sodhi, J.

1. This appeal is directed against the judgment dated 12th May, 1981, of the Metropolitan Magistrate, New Delhi, in Case No. 85/2, whereby the learned Magistrate was pleased to acquit the respondent herein of the offence/charge under Section 379 IPC.

2. The facts of this case are that an FIR Ex.Pw1/A was lodged by PW-2 that on 30.5.78 he had parked his motor-cycle DHT 4461 at Community Centre, East of Kailash, which was stolen. On the following day, he was present at Lajpat Nagar, where he saw his motor-cycle and the accused was ready to start that motor-cycle but was apprehended by the police. In order to substantiate the case, the prosecution has examined PW-2 Suresh Sarvaria. The accused denied the prosecution's case and stated that he did not know how to drive the motor-cycle and that he was taking tea and was just resting his hand on the motor-cycle and has been wrongly implicated. The accused has examined DW-1 in his defense, who supported the version of the accused. The trial court, on an appreciation of the material available on record, has found that there was nothing on record to show that the accused knew driving or was seen parking the motor-cycle or was seen with the motor-cycle in his possession. Merely because the accused was resting against the motor-cycle, alleged to have been stolen, does not make the accused guilty of the offence under Section 411 IPC.

3. With the assistance of the learned counsel for the State, I have gone through the record of the case and find that the version put up by the defense is plausible and that the view taken by the trial court on the material available is not perverse. Even though, there may be a possibility of arriving at a different conclusion yet a judgment of acquittal ought not to be interfered with unless it is shown that the result arrived at and the reasoning in support thereof is perverse. Reference may be had to the judgments of the Supreme Court in Shri Gopal and Anr. v. Subhash and Ors. 2004 (1) JCC 439 and Ram Swaroop and Ors. v. State of Rajasthan 2004 (1) JCC 555 . In that view of the matter, I find no reason to interfere with the well-reasoned judgment of the trial court. Crl. A. 180/1981 is accordingly dismissed.