

The Court of JM 1st Class, Ramgarh
Present: Smriti Tripathi
Judicial Magistrate
18th November, 2022
District: Ramgarh
G.R. Case No. 976/2009
CNR No. JHRG030000892009
Mandu(WB) PS Case No. 116/2009

Informant Represented By	Through Indresh Prasad Sinha Smt. Manju Kachchap, Id. APP
Accused	1. Prakash Mahto s/o late Hiralal Mahto, aged about 29 years, male [A1] 2. Budhan Mahto s/o late Chaman Mahto, male, aged about 33 years [A2] 3. Shivrath Mahto @ PO s/o Mani Mahto, male, aged about 34 years [A3] 4. Pradip Kumar Mahto s/o Mani Mahto, male, aged about 33 years [A4] 5. Arun Mahto s/o late Chaita Mahto, male, aged about 35 years [A5] 6. Krishna Mahto s/o Mungalal Mahto, male, aged about 35 years [A6] 7. Satish Mahto s/o late Tulsi Mahto, male, aged about 39 years [A7] 8. Suresh Mahto s/o late Mithu Mahto, male, aged about 36 years [A8] all r/o Mauza Kedla Basti, P.S. Mandu, District Ramgarh.
Represented By	Sri Hemant Kumar, Ld. Advocate

Date(s) of Offence	01.04.2009
Date of FIR	02.04.2009
Date of Chargesheet	28.05.2009
Date of framing of charge	23.03.2018
Date of Commencement of evidence	16.11.2022
Date when Judgment is reserved	-
Date of Judgment	18.11.2022
Date of Sentencing Order, if any	N/A

Rank of the Accused	Name of the Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of detention undergone during trial for purpose of s. 428, CrPC
A1	Prakash Mahto	none	12.05.09	s. 379 and 411 of IPC	Acquitted	None	n/a

A2	Budhan Mahto	none	12.05.09	s. 379 and 411 of IPC	Acquitted	None	n/a
A3	Shivnath Mahto@ PO	none	08.05.09	s. 379 and 411 of IPC	Acquitted	None	n/a
A4	Pradip Kumar Mahto	none	12.05.09	s. 379 and 411 of IPC	Acquitted	None	n/a
A5	Arun Mahto	none	12.05.09	s. 379 and 411 of IPC	Acquitted	None	n/a
A6	Krishna Mahto	none	12.05.09	s. 379 and 411 of IPC	Acquitted	None	n/a
A7	Satish Mahto	02.04.09	15.05.09	s. 379 and 411 of IPC	Acquitted	None	n/a
A8	Suresh Mahto	none	12.05.09	s. 379 and 411 of IPC	Acquitted	None	n/a

J U D G M E N T

1. The aforementioned accused persons (hereinafter referred to as "**A1 to A8**") are facing trial for charges framed u/s. 379 and 411 of The Indian Penal Code, 1860 (Hereinafter referred to as the "**IPC**").

2. The compendious **case of the prosecution** as sourced from the written report of Indresh Prasad Sinha, in-charge West Bokaro OP (hereinafter referred to as the "**informant**") is, that the security guard of CCL informed him that in the night of 01.04.2-09, 10-12 unknown thieves fled away after committing theft in the workshop and on being chased, one thief was caught with two bags of iron scraps. The apprehended accused disclosed his own name as Santosh Kumar Mahto and he also disclosed the names of his other associates including the names of A1-A8 who fled away from there. The apprehended accused person was handed over to the police with stolen article. On the basis of said information, the instant case was lodged against A1 to A8 and three others namely Yashwant Mahto, Yogeshwar Mahto and Dhaneshwar Mahto andan FIR bearing no. Mandu(WB) PS Case No. 116/2009 dated 02.04.2009 was registered and taken up for trial.

3. After investigation, the Investigating Officer submitted charge-sheet bearing no. 32/2009 dated 28.05.2009 against 11 persons consisting of A1 to A8 and three others named above for the offence u/s. 379 and 411 of IPC and consequently, cognizance was taken of the offences under the same sections by the then court on 10.07.2009 and summons were issued to all 11 accused persons.

4. On account of long absence of accused Yogesh Kumar Mahto, Yashwant Kumar Mahto and Dhaneshwar Mahto which was accounted to their demise, as informed to the court orally, the predecessor court split their record from A1-A8 and proceeded to proceed charge against them.

5. Thereafter, on 23.03.2018 charges u/s. 379 and 411 of IPC were framed against A1 to A8 and read over to them in simple Hindi to which they pleaded not guilty and claimed to be tried and the record was advanced for prosecution evidence.

6. After closing the prosecution evidence, on 16.11.2022 the statements of A1 to A8 were recorded u/s. 313 of CrPC on same day in which they denied the material available against them and claimed to be innocent.

7. Thereafter, the defence was provided with an opportunity to adduce evidence on its behalf, if any but the Id. counsel for the defence submitted that he does not want to adduce any evidence. Upon his prayer, the defence evidence was closed and the matter was posted for arguments.

8. The prosecution did not argue much but submitted that if the evidence which has been adduced is seen as a whole then support is found of the prosecution story. The defence on the other hand argued that a false case has been lodged and no offence as alleged is made out from the deposition of the witnesses. It was also submitted that the prosecution has failed to prove the guilt of A1 to A8 beyond reasonable doubt, and they thus, deserve to be acquitted.

9. The Court will now consider whether the prosecution has been able to substantiate the charges levelled against A1 to A8 beyond reasonable doubt or not. Evidences adduced on behalf of both sides are enlisted below:

List of Prosecution/Defence Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence
PW1	Abhay Kumar	

B. Defence:

Rank	Name	Nature of Evidence
--- nil ---		

List of Prosecution/Defence/Material Exhibits

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Ext.1	Signature of Abhay Kumar on Fardbeyan of Indresh Pd. Sinha.
2.	Ext. 1/1	Signature of Indresh Pd. Sinha on his Fardbeyan.
3.	Ext. 1/1	Signature of Pradip Kr. Keshri on Fardbeyan of Indresh Pd. Sinha.
4.	Ext. 1/3	Signature of witness Abhay Kumar on seizure list.
5.	Ext. 1/4	Signature of witness Indresh Pd. Sinha on seizure list.
6.	Ext. 1/5	Signature of witness Pradip Kr. Keshri on seizure list.

B. Defence:

Sr. No.	Exhibit Number	Description
--- nil ---		

FINDINGS

10. The charges levelled against A1 to A8 are u/s. 379 and 411 of IPC. Despite several opportunities given to the prosecution, it could examine only **one** witness on its behalf.

11. **PW1 Abhay Kumar** deposed in his examination-in-chief that the occurrence took place on 01.04.2009 in the night, while he was on duty at Kedla Mining Project as foreman in-charge and the security in-charge informed the Projector engineer Indresh Prasad Sinha regarding theft of iron from Karamshala Mines and on being chased, one of the thieves was caught. On this information, he, alongwith his associates proceeded towards the place of alleged incident i.e. Karamshala and saw therein that one of the the miscreants was caught hold of the and stolen iron scrap was kept in a bag weighing about 40kgs. The apprehended person disclosed his name as Satish Mahto and further stated that his other 6-7 associates assisted him in the said offence who had escaped. They were Krishna Mahto, Prakash Mahto, Dhaneshwar Mahto, Budhan Mahto and two others. Thereafter, the police came to the place of alleged incident and recorded Fardbeyan of Indresh Pd. Sinha and he, alongwith Pradip Keshri signed the Fardbeyan. Upon PW1's identification, 1-1/5 were exhibited, the detailed of which are mentioned in the table above. In his cross-examination, he deposed that the seized iron scrap was brought before the court that day and further that he has not seen the occurrence with his own eyes. Further that, no TIP was conducted of the stolen articles. Also, that he cannot remember whether the seized items were sealed or not and that the police did not record his statement ever and his deposition is based on what he heard.

12. No other evidence has been brought on record by the prosecution despite being given several opportunities and issuance of several processes and letters. PW01 even though has somewhat supported the case of the prosecution, is not an eye witness. The prosecution case is shorn of even a single piece of evidence which would suggest that it were A1-A8 only who committed the alleged crime. No cogent and reliable testimony has been brought by the prosecution to prove the charges. Hence she has miserably failed to prove the charge beyond the shadow of all reasonable doubt.

13. Thus, this court is of the considered opinion that the prosecution has failed to substantiate the charges u/s. 379 and 411 of IPC. Hence, A1-A8 are all hereby acquitted in this case. They as well as their respective bailors stand discharged from the liabilities of their respective bail bonds.

(Dictated and corrected)

Pronounced by me in open court.

(Smriti Tripathi)

JO Code: JH02021

JM 1st Class, Ramgarh

Ramgarh, dated the 18th November, 2022

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