

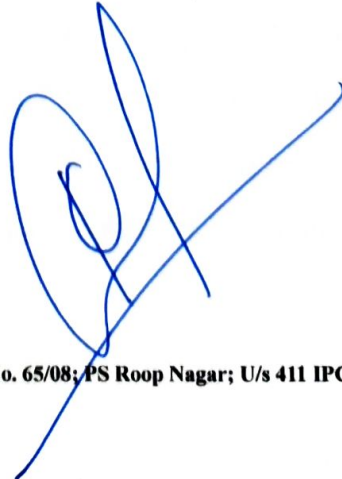
**THE COURT OF SH. KAPIL KUMAR  
METROPOLITAN MAGISTRATE-05, CENTRAL,  
TIS HAZARI COURTS, DELHI**

**CNR No. DL CT-02-000814-2008  
CIS No. 298024/16  
FIR No. 65/08  
PS. Roop Nagar  
State Vs Sunil Kumar  
U/s. 411 IPC**

**JUDGMENT  
(Through VC)**

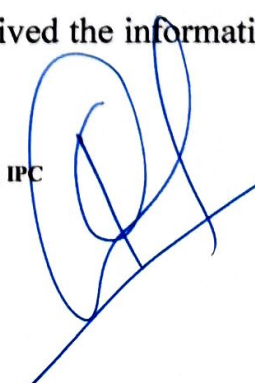
- 1) The date of commission of offence : 12.09.2008
- 2) The name of the complainant : Awdesh Singh  
S/o Dinesh Partap Singh
- 3) The name & parentage of accused : Sunil Kumar  
S/o Dhani Ram
- 4) Offence complained of : 411 IPC
- 5) The plea of accused : Pleaded not guilty
- 6) Final order : Convicted
- 7) The date of such order : 21.07.2020

Judgment announced on : 21.07.2020



**THE BRIEF REASONS FOR THE JUDGMENT:**

- 1) The case of prosecution against the accused is that on 12.09.2008 he got recovered one stolen motorcycle make Bajaj Discover of black colour bearing registration no. DL 8SAM 0624 from the house of one Vikas Chauhan. The motorcycle was stolen on 01.04.2008 from the possession of Awdesh Singh who was the resident to Roop Nagar.
- 2) After completion of investigation, charge sheet was filed against the accused. In compliance of Sec. 207 Cr.PC, documents supplied to the accused. Arguments on point of charge were heard. Vide order dated 02.01.2009, a charge u/s 411 IPC was framed upon the accused, to which he pleaded not guilty and claimed trial.
- 3) In support of its case, prosecution has examined 12 witnesses. After conclusion of prosecution evidence statement of accused was recorded U/s 313 Cr.PC(as per section 281(1) Cr.PC) in which accused denied all the allegations and opted not to lead DE.
- 4) I have heard the arguments of Ld. APP for State and Ld Counsel for accused. I have also perused the record carefully.
- 5) It is the cardinal principle of criminal justice delivery system that the prosecution has to prove the guilt of the accused beyond reasonable doubts. No matter how weak the defence of accused is but the golden rule of the criminal jurisprudence is that the case of prosecution has to stand on its own legs.
- 6) The factum as to the theft of motorcycle in question came on record by virtue of testimony of PW1 Awdesh Singh who deposed that on 01.04.2008 at about 9 PM he parked his motorcycle bearing registration no. DL 8SAM 0624 make Bajaj Discover in the boundary of his house but on the next day he found his motorcycle stolen. He deposed he made a police complaint vide Ex.PW1/A. He deposed that in the month of October 2008 he received the information as



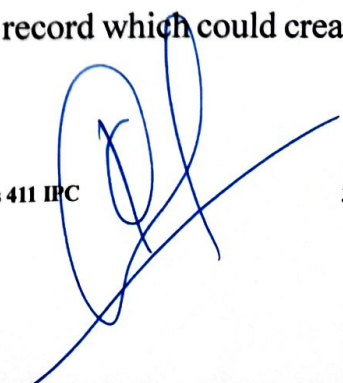


to the recovery of motorcycle and he got that motorcycle released from the police station on superdarinama. He identified the stolen motorcycle in the court.

7) PW2 Inspector Dinesh Kumar deposed that on the basis of statement of the complainant Ex.PW1/A the rukka Ex.PW2/A was prepared. He deposed that thereafter site plan Ex.PW2/B was prepared followed by the preparation of seizure memo of the photocopy of the RC of the motorcycle vide Ex.PW2/C. The FIR Ex.PW6/A was registered by Duty Officer ASI Raj Kumar/PW6 vide endorsement on rukka vide Ex.PW6/B. The information as to the theft of the motorcycle was initially registered vide DD No 11B dated 02.04.2008 vide Ex.PW9/A. The FIR was handed over to the IO by HC Surender/PW10.

8) The motorcycle was initially not traced. Thereafter on 10.09.2008 the accused Sunil was arrested in FIR no. 448/08 PS Kalkaji in which he made a disclosure statement Ex/PW5/B qua the present case also and thereafter on 12.09.2008 the motorcycle in question was got recovered by the accused from the house of one Vikas Chauhan who purchased the motorcycle from the accused against the consideration of Rs 30,000/- for which he produced a receiving slip, which was seized vide Ex.PW5/D. The motorcycle in question was seized vide Ex.PW5/C and thereafter deposited in the malkhana of PS Kalkaji. These facts came on record vide testimony of PW5 SI Ravinder Singh and PW7 ASI Devender. Thereafter the IO of the present case namely SI Dinesh Parshad examined as PW11 by the prosecution arrested the accused in the present case.

9) The testimony of PW5 and PW7 on the aspect of recovery of the motorcycle in question at the instance of the accused from the house of Vikas Chauhan is specific. The testimony of both these witnesses corroborates each other. PW7 was cross-examined but nothing came on record which could create



any doubt on the aspect of recovery of motorcycle in question at the instance of accused in furtherance of his disclosure statement. The proceedings which were initiated with the arrest of the accused in FIR 44/08 PS Kalkaji and ultimately culminated into the recovery of motorcycle in question in the present case came on record. Vide testimony of PW5 and PW7 the recovery of motorcycle from the house of Vikas Chauhan at the instance of the accused proved on record. The exclusive knowledge of the accused as to the availability of motorcycle in the house of Vikas Chauhan to whom he sold the motorcycle is very much a relevant fact which is proved on record.

10) Vide testimony of PW1, PW5 and PW7 the fact as to the theft of the motorcycle in question is proved and it is also proved that the accused either retained or received the stolen motorcycle despite knowing the same to be a stolen property and thereafter sold the same to one Vikas Chauhan. It is proved on record that motorcycle was recovered at the instance of the accused. All the ingredients of the offence u/s 411 IPC proved on record against the accused and he is convicted accordingly. Copy of judgment be supplied to the convict free of cost. Be heard on point of sentence.

**Announced through VC  
on 21.07.2020**

**(Kapil Kumar)  
MM-5/Central District  
Tis Hazari Courts/Delhi,**