

**HIGH COURT OF MADHYA PRADESH: BENCH AT**

**INDORE**

**BEFORE HON. SHRI JUSTICE ALOK VERMA,J**

**Cr.R. No.1530/2014**

**1 Ravi S/o Jagdish Rathore  
Age 21 years  
R/o – Nanakheda Luharpatti  
District Ujjain.**

**..... Applicant**

**Vs.**

**1 State of Madhya Pradesh  
Through Police Station Nanakheda,  
District Ujjain.**

**..... Respondent**

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Shri Virendra Sharma, learned counsel for the applicant.

Shri B.L. Yadav, learned Dy. A.G. for respondent/State.

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**ORDER**

**(Passed on 03/02/2015)**

This criminal revision is filed under section 397 of Cr.P.C. against the order passed by the learned Sessions Judge, Ujjain in Session Trial No.608/2014 dated 01.12.2014

whereby the learned Sessions Judge framed charge against the present applicant under section 392 of IPC.

2. The relevant facts for disposal of this application are that the complainant Smt. Reena Saxena was going to purchase some medicines along with her daughter Betu on 14.09.2014 at 08:30 pm near the Mili Park, a motorcycle - Hero Splendor came from behind, driver of the motorcycle snatched her Mangalsutra which was broken and fell down, seeing this, the driver of the motorcycle tried to flee away. The complainant noted the number of motorcycle which was MP13-DQ-5949. The matter was reported to Police Station Nanakheda, District Ujjain where Crime No.337/2014 was registered under section 392 IPC.

3. By the impugned order, the learned Sessions Judge framed charge under section 392 IPC in which it was mentioned that on 14.09.2014 at 08:30 pm. at Ved Nagar, Ujjain, present applicant snatched Mangalsutra of the complainant Reena Saxena valuing of Rs.250/- by putting her in instant fear of causing injury.

4. The present revision is filed on the ground that

according to the facts as narrated in the FIR, the complainant had not been put under fear of instant hurt and the offender had no intention to cause bodily injury or cause death and no injury was caused to the complainant. It is a case of theft and not robbery and, therefore, charge under section 379 IPC should have been framed and not under section 392 IPC as was done in this case.

5. In the facts as narrated in the FIR which is to be seen whether any offence is made under section 392 of IPC, loot is prescribed under section 390 of IPC which provides that loot can be either committed by extortion or by theft. In the limb of the section which may be reproduced below :-

“Section 390. Robbery.—In all robbery there is either theft or extortion.

When theft is robbery—Theft is “robbery” if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

When extortion is robbery—Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and

commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.”

6. It may be seen that this section provides that theft is robbery when (i) voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint (ii) fear of instant death, of instant hurt or of instant wrongful restraint.

7. In the instant case though in the charge, the learned Sessions Judge mentioned that the offender put the complainant under instant fear of hurt but as per the facts stated in the FIR, she was not put under any fear of hurt. In fact, the chain was snatched and it may be assumed that while snatching the chain, criminal force was used against her and that caused her bodily pain and hurt and, therefore, when such hurt was caused which is simple in nature it falls within the first limb of section 390, as such, the theft was committed in this case while causing bodily injury/simple hurt to the complainant, the matter falls within the first limb of section 390 and, it is a robbery.

8. Further, it may be observed that when hurt was caused

section 394 IPC may also be added in the charge, however, in this case, the learned Sessions Judge framed charges only under section 392 of IPC.

9. That be so, so far as this revision is concerned, there appears to be no illegality committed by the learned Sessions Judge, the revision is devoid of any merit and it is liable to be dismissed and dismissed accordingly.

**( ALOK VERMA )**  
**JUDGE**