

**IN THE HIGH COURT OF MADHYA PRADESH**  
**BENCH AT INDORE**

**(SB: Hon'ble Mr. Justice Alok Verma)**

**CRR No.727/2015**

Ravi Jaiswal S/o Poonamchand Jaiswal

Vs.

State of MP

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Shri DK Maheshwari, learned counsel for the applicant.  
Ms. Mini Ravindran, learned counsel for the respondent/State

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**ORDER**

**(Delivered on this 29<sup>th</sup> day of July, 2015)**

This criminal revision filed under section 397 read with section 401 of Cr.P.C. is directed against the order passed by learned 1<sup>st</sup> Additional Sessions Judge, Mhow, District - Indore in Sessions Trial No.32/2015 dated 08.05.2015 whereby, learned Additional Sessions Judge framed charges under sections 411, 414 of IPC against the applicant.

Brief facts giving rise to this application are that on 24.09.2014 at 7:00 pm, complainant Kamalapati Dwivedi, who was working as Gunman in State Bank of India, Mhow, lodged a complaint before Police Station – Manpur, Tehsil –

Mhow District – Indore, that he was going to load currency notes alongwith co-accused Manish Borasi, Praveen Verma in Bolero Jeep in ATM machines to Manpur. The Jeep was being driven by accused Vijay Soni. Before leaving for Manpur, they loaded currency notes in various ATM machines and when they were proceeding towards Manpur, near Nandlai Ghat, the vehicle went out of control and hit the tree at the side of the road. Thereafter, many persons gathered there and someone of them committed theft of all the currency notes that was in the vehicle.

During investigation, it was found that the accident was deliberately planned. All the accused persons removed cash from the vehicle and they thereby committed theft of it. It was also found that they admistered some substance, mixing it in the fruit juice of complainant and the complainant, who was security guard, felt digy and went unconscious for some time.

In respect of the present applicant, it was alleged that after removing the amount, part of it was given to the present applicant for keeping it hidden. The present applicant kept money in the plastic bag and kept it in the pipe in his house.

It is further stated that during his absence, other co-accused removed the cash from pipe. No cash was recovered from his possession, however, only on the basis of the information given and the story narrated by co-accused to the police under section 27 of the Evidence Act, he was arraigned as accused and finally charged under sections 411 and 414 of IPC for receiving stolen property and assisting in concealment of stolen property.

Counsel for the applicant submits that there is no legal evidence available against the present applicant. The fact that money was kept for some time in the house of the present applicant, was narrated by co-accused in their memorandum under section 27 of the Evidence Act. No recovery of cash was made from possession of present applicant and, therefore, story narrated under section 27 of the Evidence Act is not admissible and, therefore, according to him, there is no legal evidence available against present applicant.

Counsel for the State submits that present applicant kept stolen property and helped other accused in concealing the same. Therefore, he is liable under aforementioned sections of IPC.

I have through the impugned the impugned order and also copies of the complete charge-sheet.

I find that arguments of counsel for the applicant is acceptable. The allegation against the present applicant came up in the memorandum of co-accused Rahul S/o Rajendra Singh Kadam. Such portion of memorandum is not admissible in evidence. There is no witness to confirm that money was for some time kept in polythene bag in the house of present applicant. When there is no recovery of any article, provisions of section 27 of Evidence Act do not apply and the statement of the accused whose memo under section 27 of the Evidence Act is prepared, it not admissible being hit by section 25 of the Evidence Act.

In this view of the matter, in my considered opinion, there is no legal evidence available against the present applicant. The revision, therefore, deserves to be allowed and is hereby allowed. The charges under sections 411 and 414 of IPC framed against the present applicant by learned Additional Sessions Judge in Sessions Trial No.32/2015 pending before First Additional Sessions Judge, Mhow, District – Indore are quashed. Present applicant is discharged

from offence under sections 411 and 414 of IPC. His bail and bonds are cancelled.

With these observations, the revision stands disposed of.

C.c as per rules.

**(Alok Verma)**  
**Judge**

*Kratika/-*