

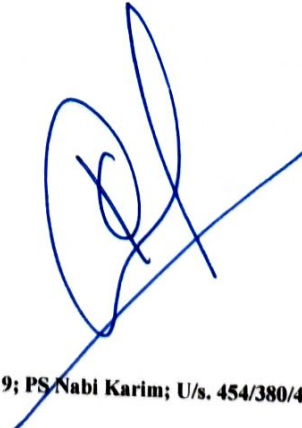
**THE COURT OF SH. KAPIL KUMAR  
METROPOLITAN MAGISTRATE-05, CENTRAL,  
TIS HAZARI COURTS, DELHI**

**CNR No. DL CT-02-008725-2019  
CIS No. 4285/19  
FIR No. 37/19  
PS. Nabi Karim  
State Vs Titu Kumar  
U/s. 454/380/411 IPC**

**JUDGMENT  
(Through VC)**

- 1) The date of commission of offence : 31.01.2019
- 2) The name of the complainant : Mohd Armaan  
S/o Mohd Farukh
- 3) The name & parentage of accused : Titu Kumar  
S/o Sunil Kumar
- 4) Offence complained of : 454/380/411 IPC
- 5) The plea of accused : Pleaded not guilty
- 6) Final order : Convicted
- 7) The date of such order : 20.07.2020

Judgment announced on : 20.07.2020



**THE BRIEF REASONS FOR THE JUDGMENT:**

- 1) The case of prosecution against the accused is that on 31.01.2019 at about 8:15 AM at house no. 6989, Quila Kadam Sharif, Nabi Karim he committed lurking house trespass by entering into the above-mentioned building for committing theft and committed theft of five school bags. The accused was apprehended at the spot along with the stolen school bags belonging to the complainant Mohd Armaan.
- 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 02.05.2019, a charge u/s. 454/380/411 IPC was framed upon the accused, to which he pleaded not guilty and claimed trial.
- 3) In support of its case, prosecution has examined four 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. Accused alleged that he was working in the factory of the complainant and there was a salary dispute for which he has been falsely implicated in the present case by the complainant.
- 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 complainant of the present case namely Mohd Armaan has been examined as PW2 by the prosecution. He is the crucial witness of the present case as he was the one who apprehended the accused while he was allegedly



running from the spot along with the stolen bags. In these circumstances it is imperative to appreciate the testimony of the complainant minutely.

7) PW2 deposed that on 31.01.2019 he was sleeping at the ground floor of his house bearing no. 6989 Quila Kadam Shairf which is constructed up to the fourth floor. He deposed that he runs a bag manufacturing unit from the house only. He deposed that at about 8:15 AM he saw someone coming to the ground floor with the help of rope from the first floor. He deposed that he found that person opening the door and was going outside the house. He deposed that he apprehended that person who is the accused (correctly identified) as he was carrying 4-5 stolen bags. He deposed that he raised alarm for which neighbours came at the spot and police was called. He deposed that his statement Ex.PW2/A was recorded followed by the preparation of site plan Ex.PW2/B. Rukka was prepared and FIR was registered. He deposed that IO seized the stolen 5 bags vide seizure memo Ex.PW2/C and arrested the accused vide Ex.PW2/D. He correctly identified the bags in the court when those bags were produced in the court by the MHC(M) PS Nabi Karim.

8) PW2 was cross-examined but nothing came on record as to the identification of the accused. The testimony of PW2 is unchallenged on the aspect of identification of the accused. Further when the accused was examined U/s 313 Cr.PC he impliedly admitted his presence at the spot by stating that he was called at the spot by the complainant on the pretext of giving his due salary.

9) There is nothing on record that the accused was the employee of the complainant. This fact was suggested by the accused but there is no proof on that aspect. If the accused was the employee of the complainant and there was salary dispute than the accused could have brought his co-employees in the witness box for proving that fact. The alleged submission of Ld Defence Counsel that the accused was employee of the complainant has no backing of

any evidence.

10) The testimony of complainant sustained the test of the cross-examination and this court found no reason to disbelieve the same. The presence of the accused at the spot also corroborated vide testimony of PW3 Ct Rajesh and PW4 HC Rajender Singh who deposed that after receiving DD no. 27A dated 31.01.2019 regarding the theft, when they reached at the spot they found the complainant and the accused at the spot and they also found 5 stolen bags which were being allegedly carried by the accused.

11) By virtue of testimony of the complainant it is proved on record that on 31.01.2019 the accused entered into the house of the complainant for committing theft; committed theft of five school bags and he was trying to escape the house of the complainant by coming to the ground floor with the help of a rope. The accused was apprehended at the spot along with the five stolen school bags. All these facts proves on record the ingredients of section 454 IPC and 380 IPC. Reliance on this aspect be placed on judgment titled as **Lokesh Kumar Vs State NCT of Delhi 2019 SCC online Delhi 7007.**

12) In view of the above-discussion the accused is hereby convicted for the offences U/s 454/380 IPC. Copy of judgment be supplied to the convict free of cost. Be heard on point of sentence.

**Announced through VC  
on 20.07.2020**

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

**CNR No. DL CT-02-008725-2019**  
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20.07.2020

Present: Ld APP for the State.

Accused is present.

Heard submissions.

Vide separate judgment of even date, accused Titu Kumar is convicted for the offences under section 454/380 IPC. Copy of the judgment supplied to the convict free of cost.

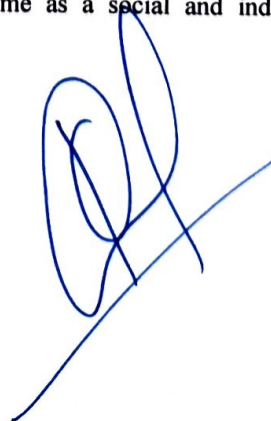
Arguments on the point of sentence heard at the instance of the accused who submits that he is too poor and cannot come to the court again and again as he is doing some daily wages work for which he is getting Rs 400/- daily. Accused submits that during the lockdown his employer removed him from the job.

Ld. APP for the state submits that a substantive punishment be awarded to convict so that a deterrent message be sent to the society.

Convict submits that he is too poor and the entire family is dependent upon him. Convict submits that if he be sent to JC than his family will have nothing to eat.

Records perused.

The penology is largely based on two cardinal principle i.e. Deterrent and reformative theories. Convict has shown a genuine desire to repent, therefore, must be granted a fair opportunity for reformation so that he can be a useful citizen of the country. Simultaneously, the convict must be awarded such a sentence, which discourages the other like minded people of the society from entering the world of crime. However, a balance is required to be maintained between the theories, while sentencing the convict. No single theory whether deterrent, preventive, retributive or re-formative can help in eliminating crimes and criminals from society. It is only through an effective combination of two or more of these theories that an ideal penal programme can be drawn to combat crimes. It is also essential to understand crime as a social and individual



phenomenon and the need to prevent its commission or repetition by adapting an attitude conducive to the re-socialization and reformation of the criminal. The criminal reformation serves a great social purpose and society itself becomes the greatest beneficiaries of this reformation by being freed from his depredations. If the society cannot reform an offenders, it is punishment for the society. Convict remained in JC for around a week.

The theft was of 5 school bags which were recovered on the spot.

Convict is poor person and sole bread earner of his family. Convict is sentenced to imprisonment already undergone and further sentenced to pay a fine of Rs 1000/- qua the offence U/s 380 IPC, in default of payment of fine simple imprisonment for 7 days and further sentenced to pay a fine of Rs 3000/- qua the offence U/s 454 IPC, in default of payment of fine simple imprisonment for 7 days. Fine paid by convict. Receipt issued.

At this stage surety of the accused, in attendance of the court and connected through the computer system of the Ahlmad, moved an application to the effect that, the bail bonds which were furnished by her during the trial be extended for further 6 months in view of section 437 A Cr.PC.

Heard. Application allowed. Previous bail bonds extended in view of section 437 A Cr.PC.

The soft copy of the judgment has been provided to the computer branch for necessary uploading the same on CIS.

It is to be noted that digital signature of undersigned has been expired for which the necessary intimation has been sent to the computer office. Necessary entries be made on CIS as to the pronouncement of this judgment today.

File be consigned to Record Room after due compliance.

TITU  
KUMAR

20/07/2020

(KAPIL KUMAR)  
MM-05/Central:  
Delhi/20.07.2020