IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 359 of 2017

Ajay Sharma, son of Suresh Sharma, resident of Village Farha, P.O. & P.S.-Akbarpur, District-Nawada (Bihar).

... ... **Petitioner**

Versus

The State of Jharkhand … … **Opp. Party**

For the Petitioner : Mr. Rajesh Kumar, Advocate
For the State : Mr. Saket Kumar, A.P.P.

P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

C.A.V. on 12.08.2026 **Pronounced on 05/10/2026**

1. Heard Mr. Rajesh Kumar, learned counsel for the petitioner and Mr. Saket Kumar, learned A.P.P. for the State.

2. The instant criminal revision has been preferred against the judgment dated 23.01.2017 passed by learned District & Additional Sessions Judge-IV, Dhanbad in Criminal Appeal No. 50 of 2015, whereby and whereunder the learned Appellate Court has dismissed the appeal and affirmed the impugned judgment of conviction and order of sentence dated 10.03.2015 passed by learned Judicial Magistrate 1st Class, Dhanbad, in G.R. Case No. 1786 of 2013 corresponding to Dhanbad P.S. Case No.450 of 2013 whereby and whereunder the petitioner has been convicted for the offence under Section 414 of the I.P.C. and sentenced to undergo R.I. for three years along with fine of Rs.1000/- with default stipulation.

Factual Matrix

3. Factual matrix giving rise to this revision as per written report of the informant, Akhileshwar Choubey, is that on 27.04.2013, at about

07:30 A.M., the informant received secret information that a young man, carrying a bag containing suspicious materials, was proceeding towards Bartand Bus Stand. Upon receiving the said information, the informant along with S.I. Ghanshayam Prasad Saw, A.S.I. Bechu Ram, and Police Constable No. 2274, proceeded towards Bartand Bus Stand. When they reached at Jay Prakash More at about 07:40 A.M., they saw a person carrying a bag on his shoulder and proceeding towards the bus stand. On the basis of suspicion, the said person was intercepted and on query, he disclosed his name as Ajay Sharma, son of Suresh Sharma, resident of Farha, P.S. Akbarpur, District Nawada, Bihar. In the presence of two independent witnesses, Santosh Kumar Pal and Manoj Kumar Singh, the bag was searched, whereupon two silver slabs wrapped in old clothes and cash amounting to Rs.1,50,000/- were recovered. The larger silver slab was marked “354”, while the smaller silver slab was marked “SK79”. Upon weighing, the silver slabs were found to weigh 12 kg and 5 kg respectively. Upon further questioning, Ajay Sharma disclosed that he worked at the shop of Prahalad Kumar Verma of Nawada, where old ornaments were melted and converted into silver slabs. He further disclosed that the silver was taken to Kolkata, where it was converted into pure silver and ornaments were prepared therefrom. He could not produce any document relating to the possession or transportation of the said silver slabs. Thereafter, the recovered silver slabs and cash were seized after preparation of the

seizure list and the accused was arrested.

On the basis of above written report, Dhanbad P.S. Case No. 450 of 2013 dated 27.04.2013 was registered for the offence under Section 414 of the I.P.C. against the accused.

4. After completion of investigation, charge-sheet was submitted against the accused for the aforesaid offence. After taking cognizance the charge was framed and read over and explained to the accused person in Hindi, to which he pleaded not guilty and claimed to be tried.

5. In the course of trial, altogether four witnesses were examined by the prosecution:-

(i) P.W.-1-Manoj Kumar Singh

(ii) P.W.-2-Dayanand Singh

(iii) P.W.-3-Akhileshwar Chaubey (informant of this case)

(iv) P.W.-4-Ghanshyam Prasad Sah

Apart from oral testimony of witnesses, following documentary evidence have also been adduced by the prosecution:-

Exhibit-1 : Signature of Manoj Kumar Singh on seizure list.

Exhibit-2 : Seizure List.

Exhibit-2/1 : Signature of P.W.-3 on seizure list.

Exhibit-3 : Written Report.

Exhibit-3/1 : Signature of P.W.-3 on written report.

Exhibit-3/2 : Signature of P.W.-3 on written report.

6. On the other hand, no oral or documentary evidence has been adduced on behalf of defence.

7. After conclusion of trial, the petitioner was convicted and sentenced as stated above, which was upheld by learned Appellate Court, which has been assailed in this criminal revision.

Submissions on behalf of the petitioner

8. Learned counsel for the petitioner has submitted that none of the courts below have properly appreciated the materials available on record before convicting the petitioner for the offence punishable under Section 414 of the I.P.C. and sentencing him to undergo R.I. for three years. It is further submitted that the prosecution has miserably failed to examine one Prahalad Kumar Verma to whom the seized articles belonged and the petitioner stated from the very beginning that he is working in the jewellery shop of one Prahalad Kumar Verma. The prosecution has also failed to either make him witness or accused in this case. The seizure list witness namely, Manoj Kumar Singh, who has been examined as P.W.-1 has not supported the case of prosecution and turned hostile while the other seizure list witness namely, Santosh Kumar Pal has not been examined. As such the prosecution has failed to prove the search and seizure of seized articles. Learned counsel for the petitioner has submitted that in order to establish a case under Section 414 of IPC, the property must be proved to be stolen property, but in the present case, no evidence has been brought on record by the prosecution

to prove the seized property to be stolen one. As such, no case under Section 414 of I.P.C. is made out as against the petitioner. Therefore, the petitioner deserve acquittal from the charge levelled against him by setting aside the impugned judgment and order of conviction and sentence.

Submissions on behalf of the State

9. Learned A.P.P. appearing for the State has opposed the contention raised on behalf of the petitioner and submitted that there is concurrent finding about guilt of the petitioner for the offence under Section 414 of the I.P.C. Therefore, there is no reason to interfere with the concurrent findings recorded by the learned trial court as well as learned appellate court. This revision has no merits and is fit to be dismissed.

Analysis, discussions and reasons

10. Before imparting the judgment, it is relevant to discuss the prosecution evidence.

P.W.-1 Manoj Kumar Singh. This witness has identified his signature on the seizure list, which has been marked as Exhibit-1. At the request of prosecution, this witness has been declared hostile and prosecution was permitted to cross-examine the witness.

P.W.-2 Dayanand Singh. This witness has deposed that the occurrence took place on 27-04-2013 at 7.30 O'clock. He has further deposed that on the basis of secret information, he along with Inspector Sahab, SI. Ghanshayam Prasad Saw, ASI Bechan Ram went

to Jay Prakash More near Bus stand and where he saw that a boy carrying a bag with heavy materials was going. Under the direction of his superior officer, he caught the boy and brought him. On query, he disclosed his name as Ajay Sharma. In presence of two independent witnesses, Santosh Kumar Pal and Manoj Kumar Singh, the bag was searched. On search, two silver silly rapped in old cloths and cash Rs. 1,50,000/- were recovered. On asking, he did not give satisfactory answer and also he did not produce any document with regard to seized materials.

P.W.-3 Akhileshwar Chaubey (informant of this case). This witness has deposed that on the day of occurrence, he was posted at Dhanbad P.S. as police inspector-cum- Officer-in-Charge. He has further deposed that the occurrence took place on 27-04-2013 at about 7.40 am. At 7.30 am, he got secret information that a person keeping suspicious material in a bag was going towards Bartand Bus stand. On that information, he along with SI G.P. Sah, ASI Bechan Ram, constable Dayanand Singh reached at Jay Prakash More at 7.40 am and found a person carrying a reksing bag of Muddy colour keeping heavy materials in bag was going towards bus stand. He was stopped and on asking, he disclosed his name as Ajay Sharma. In presence of two independent witnesses, Manoj Singh and Santosh, the bag was searched. Two silver silly big and a small size and cash Rs. 1,50,000/- were recovered. On interrogation, he disclosed that the material

belonged to one of the Jewellery Shop of Nalanda and going to Kolkata for refining of the silver and also for making jewellery thereafter, but he did not produce any document. The material was seized believing to be stolen and a seizure list was prepared which has been marked as Ext.-2. He identifies his signature on the seizure list, which has been marked as Ext.-2/1. He also identifies the written report in the writing of ASI Bechan Ram, on his dictation, which has been marked as Exhibit-3. He also identifies his signature on the written report, which has been marked as Ext.-3/1. He also identifies his writing and signature on the endorsement, which has been marked as Ext.-3/2. He handed over the charge of investigation to SI G.P. Saw. The accused was arrested.

In his cross-examination, at para-9, this witness has stated that the apprehended person disclosed before him that he was coming from Nawada and going to Kolkata. He also disclosed before him that he was an employee of Prahalad Prasad Verma and going to Kolkata carrying his material.

P.W.-4 Ghanshyam Prasad Sah is the I.O. of this case. He has deposed that on 27-04-2013, he was posted at Dhanbad Sadar P.S. as S.I. He took the charge of investigation of Dhanbad P.S. Case No.-450/13 on 22-04-2013 from Akhileswar Choubey. On 27-04-2013 at 8.00 am, he started the investigation on the written report of Inspector Akhileshwar Choubey. In course of investigation, he recorded the re-

statement of Akhileshwar Choubey. He also recorded the statement of witnesses ASI Bechan Ram, Dayanand Singh, Santosh Pal and Manoj Kumar Singh. He also inspected place of occurrence. The place of occurrence is situated near Bartand Jay Prakash Nagar, where the accused was caught with silver bar and money. In North of place of occurrence, concrete road, S-concrete road, West concrete road goes to Jay Prakash Nager, East Madhuban Sweet shop. He has further deposed that the accused Ajay Sharma was arrested and from his possession, two bars of silver, weighing 12 kg and 5 kg respectively and cash of Rs. 1.5 lacs were recovered. After completing the investigation, he submitted charge-sheet against the accused Ajay Sharma u/s 414 IPC.

In his cross-examination, he has stated that the accused had stated that he was working in Kanchan Jwellery Shop and did business near Jay Prakash Nagar. He has further stated that during investigation, he got no knowledge that the property was stolen property, but the accused had no document relating to the property. He has further stated that on 14-05-2013, Prahlad Kumar Verma came to Dhanbad P.S. but did not produce any document relating to seized articles.

He has denied the suggestion of defence that his investigation was defective.

11. Before coming to the conclusion, it is relevant to extract the relevant provisions of law, which reads as follows:-

> ***414. Assisting in concealment of stolen property.—***
>
> *Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.*

From the above definition, it appears that to constitute offence under Section 414 of I.P.C., following ingredients have to be proved by the prosecution:-

(i) That the property in question is a stolen property,

(ii) The accused has knowledge or reasons to believe that such property was stolen property; and,

(iii) The Accused voluntarily assisted in concealing or disposing of or making away with such property.

12. From perusal of the evidence available on record, it appears that it is admitted fact that petitioner was apprehended and from his possession two bars of silver, weighing 12 Kg and 5 Kg respectively and cash of Rs. 1.5 lacs were recovered.

13. So far as the ingredient no. (i) to constitute the offence under Section 414 of the I.P.C. i.e. '*the property in question must be stolen property*'. The term "*Stolen Property*" is defined under Section 410 of the I.P.C., which is extracted as under:-

> ***410. Stolen property.***— *Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is designated as "stolen property", whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without India. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.*

In the instant case, there is no evidence to show that the seized property were outcome of theft, robbery or dacoity or in respect of which criminal misappropriation or criminal breach of trust was committed by the accused. The Investigating Officer, in his evidence, has admitted that he got no knowledge that the property was stolen property. Thus, the ingredient no. (i) of Section 414 of the I.P.C. has not been proved by the prosecution.

So far as the ingredient no. (ii) to constitute the offence under Section 414 of the I.P.C. i.e. '*the accused has knowledge or reason to believe that such property was stolen property*' is concerned, it is evident that the accused in his evidence has explained that he was working under its owner namely, Prahalad Kumar Verma in Kanchan Jewellery Shop and did business near Jay Prakash Nagar. The Investigating Officer has neither went to Nawada, Bihar nor

interrogated the said Prahalad Kumar Verma with regard to property in question. The owner of the said shop namely, Prahalad Kumar Verma has not been examined as witness neither made accused in this case. Thus, the appellant has reasonably explained the accusation leveled against him. Therefore, the ingredient no. (ii) of Section 414 of the I.P.C. has also not been proved by the prosecution.

14. Since the basic ingredient nos. (i) & (ii) of the Section 414 of the I.P.C. has not been proved by the prosecution, therefore, there is no question arise to prove the ingredient no. (iii) of Section 414 of I.P.C.

15. In view of aforesaid discussion and reasons, I find that both the learned trial court as well as learned appellate court have committed serious error of law in appreciating the evidence available on record and in passing the impugned judgment. Therefore, I find legal substance in the points of argument raised on behalf of the petitioner and merits in this revision. Accordingly, the impugned judgment of conviction and order of sentence of the petitioner passed by the learned trial court and upheld by the appellate court is hereby set aside and this revision is **allowed**.

16. Learned trial court is directed to take proper steps for the disposal of the property, which is alleged to be stolen one.

17. Petitioner is on bail. As such, he shall be discharged from the liability of bail bond and sureties shall also be discharged.

18. Pending I.As., if any, stand disposed of.

19. Let a copy of this judgment along with trial court record be sent to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated : 05/10/2026
Sunil/ **N. A. F. R.**
Uploaded on 06/10/2026