

(1977) 01 RAJ CK 0020
In the Rajasthan High Court
Case No : Criminal Revision No. 307 of 1975

Tilak Raj

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 12-01-1977

Acts Referred:

Penal Code, 1860 (IPC) — Section 411

Citation : (1977) WLN 17

Hon'ble Judges : M.L. Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.L. Jain, J.—The facts of this revision petition are that on the night intervening the 2nd and 3rd July, 1973, a theft took place in village Davli in house of Chota Ram from where silver and gold ornaments were stolen. A report of this occurrence was lodged in the Police Station, Degana. One accused Chandra gave information on 20-11-1973 that he had sold the various stolen ornaments of gold and silver to some dealers in Delhi. Upon this information, and led by the accused the police went to the shop of the petitioner Tilak Raj in Sadar Bazar, Delhi and the accused Tilak Raj produced on 24th November, 1973, gold weighing 5 tolas which he said was pledged with him by Chandra against a loan of Rs. 1000/- which he advanced to him with interest at the rate of Rs. 1.50% p.m. He is also said to have produced the instrument of pledge. The police seized the 5 tolas of the gold and recorded the statement of the petitioner. Later on, Assistant Sub-Inspector of Police Bhanwar Singh of Degana came to Delhi on 16th April, 1974, and arrested the accused appellant u/s 411 IPC. After investigation, a challan was; filed against 7 persons in all including the present petitioner Tilak Raj. The learned Magistrate, Merta framed a charge u/s 411 IPC against Tilak Raj on 6th September, 1975, By this petition it is prayed that the said charge be quashed.

2. The learned Counsel for the petitioner cited in re Komati Jaini Rangayya AIR

1939 Mad. 582 in order to show that in a ease of pledge, as in the case in hand it is not possible to impute a dishonest intention to the accused as there was no wrongful gain to the petitioner which is a necessary ingredient of the offence u/s 411 IPC,

3. I have considered over this aspect and it appears to me that it is not possible to say at this stage unless proof is led whether it was actually a ease of pledge or not and further whether in all cases of pledge of stolen articles, no offence u/s 411 IPC is made out. There is prima facie case against the accused and therefore, I do not find it a fit case in which this Court should intervene at this stage either in its revisional or inherent jurisdiction.

4. The revision petition is therefore, dismissed.