

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Criminal Revision No. 132 of 2017**

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1. Umesh Kumar, S/o-Arjun Ram,
2. Santosh Modi, S/o-Rajiv Modi,  
Both are resident of Vill.-Gumo, Ward No. 16, P.O. & P.S.-  
Telaiya, Dist.-Koderma ... **Petitioners**

**Versus**

1. The State of Jharkhand
2. Govind Singh, S/o Late Gango Singh, R/o-Vill.-Gumo, Ward No.  
16, P.O.-Jhumri Telaiya, P.S. Telaiya, Dist.-Koderma  
... **Opp. Parties**

**CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

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For the Petitioners :Mr. Sanjeev Kumar, Advocate  
For the State :Mr. Shree Prakash Jha, A.P.P.

**ORDER**

**Dated: 18<sup>th</sup> June, 2026**

**By Court:-** Instant criminal revision is directed against the judgment dated 16.07.2016 passed by Learned District and Addl. Sessions Judge-II, Koderma in Criminal Appeal No. 39 of 2012 whereby and whereunder, the learned Appellate Court has dismissed the appeal by upholding the judgment of conviction dated 10.07.2012 with addition of sentence under Section 380 of IPC which was passed in G.R. No. 487 of 2006/T.R. No. 959 of 2012 (arising out of Tilaiya P.S. Case No. 321 of 2006) whereby and whereunder, the petitioners have been convicted for the offence under Sections 457, 380 and 411 of I.P.C. and sentenced to undergo S.I. for two years each for the offence under Section 457 and 411 of the IPC. All the sentences were directed to run, concurrently.

2. Factual matrix giving rise to this revision is that in the intervening night of 23.07.2006 and 24.07.2006, when the

informant returned to his home from work, he saw that the door of the house was opened and door of the room of his wife and mother were locked and they were shouting from inside the room to open the doors. Then, the informant opened and entered the room and saw that utensils and box containing Saari and land related documents were missing. Then, his mother narrated that on hearing the noise of breaking the door, she went near the door and found that door was locked from outside and when she pepped through the gap between the door, saw the accused persons namely Manoj Tiwary, Santosh Modi, Umesh Kumar, Karu Ram and one unknown person were breaking the lock and alleged that the aforesaid persons have committed theft in the house.

3. On the basis of written complaint of the informant, Koderma (Telaiya) P.S. Case No. 321 of 2006 was registered for the offence under Sections 457/380 of the IPC and Section 411 of the IPC was added later.

4. During course of investigation, the I.O. recorded the confessional statement of accused Umesh Ram (present petitioner No. 1) who confessed his involvement in the alleged crime along with other accused persons and some of the alleged stolen articles were recovered from his indication and seizure list was prepared.

5. After completion of investigation, charge sheet was submitted against both the present petitioners for the offence under Sections 457, 380 and 411 of the IPC.

6. The learned trial Court after giving opportunity of hearing to both the parties convicted the petitioners under Section 457, 380 and 411 of the IPC and sentenced as stated above.

7. I have already heard the arguments of learned counsel for the petitioners and the learned A.P.P.

8. Learned counsel for the petitioners submits that the learned trial Court as well as appellate Court has committed serious illegality while appreciating the evidence available on record which do not constitute the offence under Sections 457, 380 and 411 of the IPC. It is submitted that as per the F.I.R., one iron, four Saree and one red color Gamcha was stolen from the house of the informant. The prosecution case is that in the course of investigation, petitioner Umesh Kumar was apprehended and his confessional statement was recorded by the police leading to recovery of stolen articles of this case and seizure list was prepared. It is submitted that one iron, four Saree and one red color Gamcha was recovered but the same were not put for T.I.P. as is admitted by the I.O. (P.W.-4) in his evidence. There is no iota of evidence at all to prove that the seized materials were belonging to informant. The story of the prosecution that the lock was opened by the accused persons, who entered the house and committed theft, has also been disproved by the investigating office, who while visiting the place of occurrence found no broken lock of the door. Therefore, both the learned trial Court as well as the appellate Court has ignored the material aspects of the case, while holding the petitioners guilty for the offence charged against them.

Hence, the impugned judgments are perverse, illegal and not justified under law, which are liable to be set aside.

9. On the other hand, learned A.P.P. has opposed the contentions raised on behalf of the petitioners and has contended that seizure list was prepared in presence of witnesses, although they have been declared hostile but admitted their signature on seizure list. Therefore, there was sufficient evidence connecting the petitioners with the commission of alleged offence and there is a concurrent finding of guilt of the petitioners, which requires no interference in this revision, which is fit to be dismissed.

10. I have gone through the impugned judgments passed by the learned trial Court as well as the appellate Court, in the light of contentions raised on behalf of both side.

11. It appears that the conviction of the petitioners has been based only on the evidence of confessional statement of co-convict Umesh Kumar leading recovery of materials from the bushes. Admittedly, the seized materials were never put for T.I.P. to connect the recovered materials with the alleged offence. It also appears that in the F.I.R. simply, Saree and Gamcha has been mentioned but that has not been identified by the informant following the proper procedure. The seized materials were also not produced during trial before the Court. Therefore, the recovery of materials relied upon by the learned trial Court as well as appellate Court does not appear to be based on any sound reason, as there is no connecting evidence at all showing involvement of the petitioners, in the alleged offence.

12. In view of the aforesaid discussion and reasons, I find that the learned trial Court as well as appellate Court has committed serious error of law, while recording the finding of guilt of the petitioners. Therefore, **this revision is allowed** and impugned judgment of conviction and order of sentence of the petitioners passed by learned trial Court upheld by the appellate Court is hereby set aside.

13. The petitioners are on bail, hence, they are discharged from the liabilities of bail bonds. The sureties are also discharged.

14. Pending I.A., if any, stands disposed of.

15. Let a copy of this order along with trial Court record be sent to the concerned Court immediately for information and needful.

**(Pradeep Kumar Srivastava, J.)**

**18.06.2026**  
Basant/  
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