



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on: 17th December, 2025***

Pronounced on: 24th February, 2026

+ **CRL.A. 730/2025, CRL.M.(BAIL) 1141/2025**

AFZAL @ TOTLA

S/o Shri Mohd. Ahmad,

R/o Jhuggi No.T-34, Andheria More,

Near Pankhe Wali Masjid, Mehrauli, Delhi.

(Currently lodged at Central Jail No. 01, Tihar, Delhi)Appellant

Through: Mr. Archit Upadhayay, Mr. Piyush
Gautam and Ms. Muskan Aggarwal,
Advocates

versus

STATE (NCT OF DELHI)

Through

SHO, PS: INA Metro, Delhi.

.....Respondent

Through: Mr. Utkarsh, APP for the State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Criminal Appeal under Section 415(2) read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) has been filed on behalf of the **Appellant Afzal @ Totla**, against Judgment dated 01.04.2025 whereby the Appellant was convicted under Sections 411/413/414 of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*) and Order on Sentence dated 08.04.2025 passed by Learned



Principle District and Session Judge, Delhi, in **e-FIR No.0030/2020 under Sections 411/413/414 IPC**, registered at P.S. INA Metro, Delhi.

2. The *case of the Prosecution* is that on 14.02.2020, Complainant Cherkal Muhammed Ashraf made an e-FIR regarding theft of mobile phone make 'Huawei Y7 Prima 2018', while he travelling in Metro Train from Hauz Khas Metro Station to INA Metro Station. The FIR was marked to SI Laxmi Narayan, IO, who put the stolen mobile on surveillance. The mobile was found activated on ID of *one Ms. Roshni Khan*. IO approached her and she disclosed that she had purchased this mobile from the Appellant, but because he did not furnish any Bill, she had returned the same to him.

3. Further investigations were assigned to HC Ravinder, who received secret information on 06.12.2020, about the Appellant and he being in possession of stolen mobile phones. A Raiding Party was constituted comprising of SI Hari Om, HC Ravinder, HC Rajesh, Ct. Gurbej and Ct. Mohit. At the instance of secret informer, the Appellant was apprehended from *Jhuggi No.T-34, Andheria More, Near Pankhe Wali Masjid, Mehrauli, New Delhi*. On his cursory search, stolen mobile phone make *Huawai Y7, Black colour* was recovered from his possession and seized vide Memo Ex.PW-2/A.

4. Appellant's disclosure statement was recorded *vide Ex.PW-2/G*, wherein he disclosed about him committing theft of mobile phones and purses of passengers in metro trains and buses and that he used to sell them at cheaper prices, to road side passerby.

5. Pursuant to his disclosure, seven other mobile phones were recovered from his *Jhuggi No. T-34, Andheria More, New Delhi*, which



were seized under Section 102 Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*). On checking the status of recovered mobile phones, it was found that they were stolen from different places at different time from Metro Trains, etc.

6. Appellant / Accused was found to be involved in 24 cases, out of which he was convicted in 09 cases. He was also found to be active BC of Police Station: Chandani Mahal, Delhi.

7. On completion of investigations, **Chargesheet** under Sections **379/413/414/411 IPC** was filed against the Appellant.

8. Accordingly, the **Charge** under Sections 413/414/411 IPC was framed on 14.11.2022, to which Appellant pleaded *not guilty*.

9. Prosecution, in support of its case, examined total **9 witnesses**.

10. **PW-1 Ms. Roshni Khan**, had purchased the stolen mobile of the Complainant but had returned the same to the Appellant.

11. **PW-3 HC Ravinder Kumar** (intervening IO) along with Raiding Party comprising of himself, **PW-2 HC Gurbhej Gill**, **PW-5 SI Hari Om** (Retired) and **PW-7 Ct. Mohit** (resigned), on the basis of secret information, apprehended the Appellant / Accused from his *Jhuggi* and recovered the stolen mobile phone of the Complainant along with seven other mobile phones, which were seized and deposited in *Malkhana*.

12. **PW-6 Cherkkal Muhammed Ashraf**, Complainant proved his Complainant and e-FIR in regard to his stolen mobile phone. He also placed the Bill of mobile phone Ex.PW-6/D. The mobile phone was released to Mr. Salman, P.A., authorized by him and he produced the mobile phone during his testimony.



13. *PW-8 HC Arvind Kumar* and *PW-9 HC Laxman* were MHCM, who proved the *Malkhana* Register and entries regarding deposit of stolen mobile phones by HC Ravinder.

14. *PW-4 SI Laxmi Narayan* was the IO, who, on completion of investigations, filed the Chargesheet in the Court.

15. The *statement of the Accused* was recorded under *Section 313 Cr.P.C.*, wherein he denied all the incriminating evidence and pleaded his innocent. He claimed that Police witnesses were interest witnesses. He did not make any disclosure statement and the case was planted on him.

16. Learned District Judge considered the evidence of the prosecution witnesses and concluded that offence under Section 411/413/414 IPC was proved beyond reasonable doubt. **Accordingly, the Appellant was Convicted vide Judgment dated 01.04.2025 and Sentenced vide Order dated 08.04.2025 as under:**

“(i) For offence U/s 411 IPC - One year rigorous imprisonment and fine of Rs.5000/-. In default of payment of fine, convict shall further undergo simple imprisonment for 15 days;

(ii) For offence U/s 413 IPC - Four years rigorous imprisonment and fine of Rs.10,000/-. In default of payment of fine, convict shall further undergo simple imprisonment for 30 days; and

(iii) For offence U/s 414 IPC - One year rigorous imprisonment and fine of Rs.5000/-. In default of payment of fine, convict shall further undergo simple imprisonment for 15 days.”



17. *Aggrieved by the impugned Judgment dated 01.04.2025 and Order on Sentence dated 08.04.2025, Appellant has filed the present Appeal.*

18. The **grounds of challenge** are that the PW-1 Ms. Roshni Khan, from whom the stolen mobile phone of the Complainant was recovered, was continuously changing her statement and it was not proved by the Prosecution that the alleged mobile was sold to her by the Appellant. It was further alleged that she had been using the mobile phone and when apprehended by the Police, she took the name of the Appellant. The entire story has been concocted by her, only to safeguard her interest.

19. Moreover, PW-1 Ms. Roshni Khan claimed that she had purchased the mobile phone from the Appellant for Rs.1,000/- only, but she changed her statement of claiming that she had returned the phone as the Appellant was unable to produce the Bill for the same. It is asserted that how is it possible that while purchasing and using the alleged mobile phone, she had no knowledge that it was a stolen mobile phone. She was neighbour of the Appellant and therefore, he was an easy target for her to safeguard herself by taking his name.

20. The Complainant had claimed that the Appellant had snatched the mobile phone of the Complainant from a running train, but no CCTV footage was collected, to support the story of prosecution. In the zeal to convict the Appellant, learned Sessions Judge failed to consider that though the prosecution claims that he had committed similar offences at similar spot, but no independent witness was called to prove his involvement in other cases.



21. It has not been considered that despite the metro train being a crowded place, no independent witness was called by the prosecution to prove the presence of the Appellant at the spot. Police officials had not even produced the CDRs of the Appellant, to show his presence at the alleged place of incident, which is totally covered by Government CCTVs; non-production of the same weakens the case of the Prosecution.

22. There is no material evidence against the Appellant, but the Police officials of P.S. INA Metro Station with *malafide* intentions, has implicated the Appellant in this false case, on the basis of a false disclosure statement, allegedly made by him. *There is no incriminating evidence against him and he is liable to be acquitted.*

Submissions heard and record perused.

23. Appellant has been Charged for the offences under *Section 411/413/414 IPC for being found in possession of eight stolen mobile phone.*

24. The entire incident started with an e-FIR No.000030/2020, P.S. INA Metro Station, made by ***Complainant / PW-6 Cherkkal Muhammed Ashraff*** on 21.01.2020, who deposed that while he was travelling in Metro train from Hauz Khas Metro Station to INA Metro Station, he found that his mobile phone make '*Huawei Y7 Prima 2018*' was not in his pocket, as he got down at INA Metro Station. *Thereafter, he registered this e-FIR, which proves that Complainant's mobile phone was stolen.*

25. There is no material cross-examination of PW-6 Cherkkal Muhammed Ashraff / Complainant, to cast any doubt about his mobile phone having been stolen on 21.01.2020, while travelling in the Metro train.



26. **PW-4 SI Laxmi Narayan, IO** deposed that the Mobile phone was put on surveillance and was traced to PW-1 Ms. Roshni Khan. The testimony of Complainant stands fully corroborated by her testimony, who deposed that the Police had sought information from her about the mobile phone and she had informed that though she had purchased the second hand mobile phone of black color from the Appellant for Rs.1,000/-, but she had returned the same since he was unable to furnish any Bill. Her testimony also has not been challenged on any of the material facts. *She was thus, a link which led the Police to the Appellant.*

27. **PW-3 HC Ravinder Kumar**, intervening IO along with PW-2 HC Gurbhej Gill, PW-5 SI Hari Om (retired) and PW-7 Ct. Mohit (resigned) on receiving secret information about the whereabouts of the Appellant, conducted the raid on 06.12.2020. They all went to the *Jhuggi No.T-34, Andheria More, Near Pankhe Wali Masjid, Mehrauli, Delhi* and at the instance of pointing out by secret informer, apprehended the Appellant.

28. On his cursory search, the stolen mobile phone make '*Huawei Y7 Prima 2018*' was recovered from his possession, which was seized *vide* memo Ex.PW-2/A. Thereafter, Appellant's disclosure statement was recorded and pursuant thereto, at his instance, on the same day, seven other mobile phones were recovered from his *Jhuggi*, of make Micromax golden color, Realme of Blue Color, i-Phone of Golden white color, Qnet Keypad phone, one Navy Blue color and Redmi, which were seized by PW-3 HC Ravinder Kumar, *vide* memo Ex.PW-2/B to D. The mobile phones of *Apple, Micromax, Qnet and Realme* were exhibited as P1 to P4.



29. The testimony of PW-3 HC Ravinder Kumar and *PW-2 HC Gurbhej Gill*, *PW-5 SI Hari Om* (Retired) and *PW-7 Ct. Mohit*, all members of raiding team, was consistent in regard to recovery of seven mobile phone from Appellant's *Jhuggi*, at his instance and recovery of stolen mobile phone of Complainant from his possession.

30. The testimony of these Police officials is corroborated by PW-8 HC Arvind Kumar [MHC(M)], who proved *Malkhana* Register No.19, whereby seven mobile phones were deposited by HC Ravinder Kumar on 06.12.2020 at S. No.17/20 to 20/20 vide entries Ex.PW-9/A to D.

31. *PW-9 HC Laxman* [MHC(M)] proved the entry No.17/20 in *Malkhana* Register, whereby the Complainant's stolen mobile phone was deposited on 06.12.2020. He also proved other entries at S. No.18/20 to 20/20.

32. Pertinently, while one stolen mobile phone recovered from the Appellant's possession, was identified by the Complainant's, for which he had made e-FIR No.000030/2020.

33. *PW-7 Ct. Mohit* (resigned) deposed that three mobile phones were identified to be the case property in FIR No.0126/2020, 0162/2020 and 85/2019 of P.S. Yamuna Depot, Metro and the mobile phones had been forwarded to the Police Stations, accordingly. *There is again no challenged to the testimony of PW-7 Ct. Mohit in regard to the aforesaid.*

34. The Prosecution, by an unbroken chain of evidence, has proved that not only the Appellant was found in possession of Complainant's stolen mobile phone, thereby committing an offence under Section 411 IPC, but was also found in possession of seven other mobile phones, out of which



three (03) were identified as case property of three different FIRs and were forwarded accordingly.

35. *It is also pertinent to note that Appellant's Previous Involvement Report Ex.PW-3/1, reflects that he was involved in 24 cases, out of which 12 were under Sections 379/411 IPC and he has been convicted in 09 cases. Accused was found to be active BC of P.S. Chandani Mahal, Delhi.*

36. The Appellant had claimed that he had been implicated falsely by the Police of P.S. INA Metro Station, as he was a BC. However, it has been rightly observed by learned Sessions Judge that the case pertains to P.S. INA Metro Station, while he was allegedly a BC of P.S. Chandani Mahal. Therefore, the claim of the Appellant that he was falsely implicated in this case, being a BC, is not tenable.

37. Appellant's history sheet reflects his involvement in similar cases of theft and robbery of stolen articles, since 1999-2019. His *History Sheet* also corroborated of him being habitual, in dealing in stolen properties.

38. The offence under Section 411 IPC of being found in possession of stolen property of the Complainant, and under Section 413 IPC of being habitual in dealing in stolen property and Section 414 IPC is for assisting in concealment / disposing of the stolen property, therefore, stood proved beyond reasonable doubt.

39. Therefore, learned Session Judge has rightly convicted the Appellant vide Judgment dated 01.04.2025 and sentenced him *vide* Order on Sentence dated 08.04.2025.



Conclusion:

40. For the reasons discussed above, it is held that there is no merit in the present Appeal, which is hereby, **dismissed**. Pending Applications are disposed of, accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

FEBRUARY 24, 2026/R