

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CRIMINAL REVISIONAL JURISDICTION)

**Present:**

**Mr. Justice Md. Bashir Ullah**

**Criminal Revision No. 4232 of 2025**

Habibur Rahman @ Babu

...Convict-Petitioner

-Versus-

The State

.....Opposite Party

Mr. Md. Saiful Alam (Fuad), Advocate

.....For the petitioner.

Mr. Md. Shafiquil Islam, D.A.G with

Ms. Farhana Abedin, A.A.G with

Mr. Hedayth Uddin, A.A.G and

Mr. K. M. Saiful Islam, A.A.G

... For the State

**Heard on 10.02.2026, 22.04.2026**

**Judgment on 27.04.2026.**

This Rule was issued at the instance of the petitioner calling upon the opposite party to show cause as to why the judgment and order dated 20.11.2019, passed by the learned Additional Metropolitan Sessions Judge, Sylhet in Criminal Appeal No. 414 of 2018, dismissing the appeal and thereby affirming the judgment and order dated 25.10.2018 passed by the learned Metropolitan Magistrate, 2<sup>nd</sup> Court, Sylhet in

Dakkhin Surma Police Station Case No. 16 dated 19.08.2016 corresponding to G.R. No. 145 of 2016 convicting the petitioner under Section 411 of the Penal Code and sentencing him to suffer rigorous imprisonment for a period of 01(one) year, should not be set aside and/or such other or further order or orders be passed as to this Court may seem fit and proper.

The salient facts relevant for disposal of the Rule, in brief, are that one Rafiqul Islam, as informant, lodged First Information Report (FIR) with Dakkhin Surma Police Station on 19.08.2016 alleging *inter alia* that on 31.07.2016 at about 06:30 p.m. the informant had parked his motorcycle in front of Khan's house within the jurisdiction of South Police Station, Pirojpur and proceeded to a nearby house. Upon returning after a short interval, he discovered that his motorcycle was missing.

Consequently, he filed GD Entry No. 46 dated 01.08.2016 at 23:15 hours. Subsequently, on 18.08.2016 the stolen motorcycle was recovered from the possession of the

accused Habibur Rahman. The accused was arrested and the motorcycle was seized and hence the case.

On closure of Investigation, the Investigating Officer submitted Police Report No. 27 dated 09.02.2017, recommending prosecution under Sections 379 and 411 of the Penal Code.

Subsequently, the case record was transmitted to the learned Metropolitan Magistrate, Second Court, Sylhet. Thereafter, upon taking cognizance of offence, charge was framed on 09.07.2017 under Sections 379/411 and 34 of the Penal Code against the accused. Then the accused pleaded not guilty and claimed to be tried when the charge was read out and explained to him. In course of trial the prosecution examined as many as 11 witnesses to prove the indictment. The accused repeated innocence while he was examined under Section 342 of the Code of Criminal Procedure.

Upon conclusion of trial and hearing the parties, the learned Metropolitan Magistrate, Second Court, Sylhet convicted the petitioner under Section 411 of the Penal Code

and sentenced him to suffer rigorous imprisonment for a period of 01(one) year by judgment and order dated 25.10.2018.

Against the judgment and order of conviction and sentence the convict-petitioner filed Criminal Appeal No. 414 of 2018 before the learned Sessions Judge, Sylhet. On transfer, the appeal was heard by the learned Additional Metropolitan Sessions Judge, Sylhet who dismissed the appeal by its judgment and order dated 20.11.2019 affirming the conviction and sentence.

Being aggrieved by and dissatisfied with the judgment and order the petitioner preferred this instant Criminal Revision and obtained Rule. This Court enlarged the petitioner on bail till disposal of the Rule on 26.08.2025.

Mr. Md. Saiful Alam (Fuad), learned Advocate appearing on behalf of the petitioner contends that there is no specific allegation against the petitioner. The informant is not the owner of the recovered motorcycle as he failed to produce any documents evidencing ownership.

He next contends that the FIR was lodged with a delay of 19 days from the date of the occurrence and the statement under Section 164 of the Criminal Procedure was recorded 90 days after causing the petitioner's arrest.

He finally submits that the petitioner has already suffered imprisonment for more than 05(five) months in the custody and he has no previous criminal record.

On these grounds, learned Advocate for the petitioner prays for making the Rule absolute.

*Per contra*, Mr. Md. Shafiquil Islam, learned Deputy Attorney General contends that there are specific allegations against the petitioner which was duly proved by the prosecution witnesses beyond reasonable doubt.

He next submits that there is no illegality, impropriety or infirmity in the impugned judgment and orders of conviction and sentence.

He finally prays for discharging the Rule affirming the judgments and orders of conviction and sentence.

I have considered the submissions advanced by the learned Advocates for the respective parties and perused the impugned judgments and orders, and other materials on records.

Now, let us eye on what the prosecution witnesses testified.

PW1, Abu Rayhan Nur, Informant, in his examination-in-chief stated that “০৮.০৮.২০১৬ ইং তারিখে এস. এম. পি. পুলিশ লাইনস অফিসের সামনে ঐ চুরি হওয়া মোটর সাইকেল পাকা রাস্তার উপরে আসামী হাবিবুর রহমান বাবু এর হেফাজত হইতে সাক্ষীদের উপস্থিতিতে জব্দ করি।”

PW4, Md. Rafiqul Islam stated that “স্যার জুনায়েদ আর নোমানকে চাপ দিলে তারা হাবিবুর রহমান বাবু এর মাধ্যমে গাড়ি পুলিশ লাইনে উপস্থাপন করে। বাবু জানায় জুনায়েদ আর নোমান তার মাধ্যমে এই গাড়ি চুরি করা হয়েছে।”

PW5, R.I. Golam Mostafa, stated in his examination-in-chief that “এক পর্যায়ে হাবিবুর রহমান নামীয় এক ব্যক্তির মাধ্যমে মোটর সাইকেল পুলিশ লাইনে নিয়া আসা হয়।”

PW6, Habibur Rahman corroborated the above-mentioned statement. He stated that “রফিক আর আই স্যারকে জানায়

নোমানকে চাপ দিলে তারা ঘটনা স্বীকার করে এবং মোটর সাইকেল বের করে দেয়ার অঙ্গিকার করে। পরে তারা সিভিল একজন লোক হাবিবুর রহমানের মাধ্যমে মোটর সাইকেল পুলিশ লাইনসে নিয়া আসে।

In cross-examination Habibur Rahaman stated that “আর আই স্যার চাপ দিলে জুনায়েদ আর নোমান ঘটনা স্বীকার করে মর্মে আমি শুনেছি সত্য।”

It appears from the evidence adduced by the prosecution witness that Junayed and Noman were the principal perpetrators of the alleged theft of the motorcycle and the petitioner was entrusted with its custody. Furthermore, the evidence establishes that the petitioner transported the stolen motorcycle to the police line on instruction of the said principal offenders. Since the petitioner had kept the motorcycle in his custody, so he has to suffer the expiation.

On careful scrutiny of the impugned judgment and evidence on record, I find that the trial Court legally convicted Junayed and Noman under Section 379 of the Penal Code and sentenced them with a fine of Taka 10,000/-

(ten thousand) each and convicted the petitioner under Section 411 of the Penal Code and sentenced him to suffer 01(one) year rigorous imprisonment.

The record shows that the petitioner has already undergone a substantial period of imprisonment awarded which is enough expiation for the wrong done by the petitioner and he is not a habitual offender and has no previous criminal record.

In view of the facts and circumstances discussed above, I am of the considered view that the ends of justice will be best served if the sentence of imprisonment is reduced to the period already undergone.

In the result, the Rule is discharged. While the conviction is maintained, the sentence of rigorous imprisonment is reduced to the period already undergone.

Since the petitioner was enlarged on bail he may be discharged from his bail bond immediately.

Let a copy of this judgment be communicated to the concerned Court forthwith.

*(Md. Bashir Ullah, J)*

Md. Sabuj Akan  
Assistant Bench officer