

IN THE COURT OF DISTRICT & ADDITIONAL SESSIONS JUDGE-II JAMUI

Session Trial No. 621/2023, CIS No.-621/2023

(Sikandra P.S case no.-259/2021)

Present :- Sudhir Sinha

Present:-

Sudhir Sinha

District & Addl. Sessions Judge-II
Jamui

Date of Judgment:- 20.04.2026

S.Tr. No.-621/2023

Police Station :- Sikandra

PS Case No. :- 259/2021

Under Section :- 392 IPC

State (Through *Informant Gautam Singh*)

..... Prosecution.

V.

1. Nitish Kumar

2. Pramod Yadav

.....Accused Persons

Counsel for the State:-

Sh. Manoj Kumar Singh, Addl.P.P.

Counsel for the Defence:-

Sh. Mukesh Kumar Yadav, Advocate

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FORM B

Date of Offence	02.09.2021
Date of F.I.R.	02.09.2021
Date of Framing of charge	03.11.2023
Date of commencement of evidence	28.11.2023
Date on which judgment is reserved	09.04.2026
Date of the judgment	20.04.2026
Date of the sentencing order, if any	--

Accused details:

Rank of the accused		
Name of the accused/ Date of arrest.	1. Nitish Kumar 2. Pramod Yadav	28.08.2023 28.08.2023
Date of release on bail	1. Nitish Kumar 2. Pramod Yadav	04.11.2023 04.11.2023
Offences Charged with	1. Nitish Kumar 2. Pramod Yadav	395/412 IPC 395/412 IPC
Whether acquitted or convicted	1. Nitish Kumar 2. Pramod Yadav	Acquitted Acquitted
Sentence imposed	----	
Period of detention undergone during trial for purpose of Section 428 Cr.P.C.	1. Nitish Kumar 2. Pramod Yadav	2 months 7 days 2 months 7 days

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FORM C

A. Prosecution

Rank	Name	Nature of evidence
PW-1	Shankar Kumar	Homeguard
PW-2	Gautam Kumar Singh	Informant

B. Defence witnesses, if any:

Rank	Name	Nature of evidence
DW-1	None	None

C. Court witnesses, if any

Rank	Name	Nature of evidence
CW-1	None	None

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. PROSECUTION:-

Sr.No.	Exhibit No.	Description
1.	Ext. P1	The seizure list
2.	Ext. P2	The written information

B. DEFENCE:

Sr. No.	Exhibit No.	Description
1.	Nil	Nil

C. Court Exhibit

Sr. No.	Exhibit No.	Description
1.	Nil	Nil

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D. Material Objects:

Sr. No.	Material Object No.	Description
1.	Nil	Nil

JUDGMENT

1. The accused 1. Nitesh Kumar and 2. Pramod Yadav stand tried for committing dacoity and for dishonestly retaining stolen property Bajaj Pulsar motorcycle and mobile belonging to the informant Gautam Singh knowing the same to be stolen allegedly on 2nd day of September, 2021 at Rampur Road, PS-Sikandra, District-Jamui.
2. The case of prosecution in brief is that on the basis of written information of Gautam Singh, the Sikandra P.S. Case No.-259/2021 dated 02.09.2021 was registered u/s-392 IPC against 3 unidentified persons wherein he has stated that he was going to Aliganj from his house on Pulsar motorcycle bearing registration no. JH02BB1448. As he reached at Rampur, 3 persons came on motorcycle and surrounded him with arms. They assaulted him and snatched his motorcycle and mobile bearing no. 9102419423 and 7439681597 and fled away from there. One of the accused was fair complexioned and rest two accused were of dark complexion. All the accused persons were lean and thin and riding on Hero Honda Splendor motorcycyle.
3. The IO after investigation submitted the chargesheet no. 282/2023 dated 30.09.2023 for offence u/s-395/412 IPC against accused Nitesh Kumar and Pramod Kumar consequent upon which cognizance for offence u/s-395/412 IPC was taken on 30.10.2023 and the record after commitment was received in the Sessions Division as S.Tr. No. 621/2023 for trial of accused 1. Nitesh Kumar and 2. Pramod Kumar.
4. The Charges against both the accused persons were framed on 03.11.2023 for offence u/s-395/412 IPC to which they pleaded not guilty and claimed to be tried. The prosecution evidence was closed on 23.03.2026 and the statement of both the accused persons were recorded u/s 313 of the Cr.P.C

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wherein they denied the evidences against them and pleaded innocence. On the written submission of defence their evidence was closed and after hearing from the parties the record is today fixed for Judgment.

5. The points for determination before this Court is whether the prosecution has proved the charges against the accused persons beyond all reasonable doubts?

FINDINGS

6. The prosecution in order to substantiate, prove its case and to nail the guilt of the accused persons has produced PW-1 Shankar Kumar, and PW-2 Gautam Kumar Singh. The seizure list is marked as Ext. P1 and the written information is marked as Ext. P2 on part of prosecution. The defence on the other hand has not produced any evidence either oral or documentary in its support.
7. PW-1 Shankar Kumar has stated in his examination-in-chief that he was posted as a reserve guard at Sikandra P.S on 02.09.2022. On that day he went to Mirjaganj for raid. Balmukund Yadav and senior officer were alongwith him during raid. As they reached Mirjaganj then a boy started running away upon seeing them. They chased him and caught, when he searched him, three mobile phones were recovered from him. The seizure list was prepared for seized mobile upon which he had signed and the same on his identification was marked as Ext. P1. The witness does not identify the accused persons present before the Court.
8. During cross-examination he has replied not to have a personal information regarding seizure list. He has replied in para-4 that he did not remember where he went from 06 am to 10 pm on the date of alleged incident. Lastly during suggestion he has denied to have deposed falsely.
9. PW-2 Gautam Kumar Singh who is informant of this case has stated in his examination-in-chief that the incident occurred on September 2021 at about 7-8 in the evening. He was going to his Sasural Alipur from Dadha on pulsar motorcycle. As he reached near Rampur, 3 persons came in which one was an

elder man and the two were young lean, thin, dark complexioned boys and stopped his motorcycle by showing his hand. He stopped his byke. They started beating him and pointed their arms. They snatched his motorcycle and fled away. He has filed the written information at Sikandra P.S. upon which he had signed, the same on his identification was marked as Ext P2. The witness denied to identify the accused persons.

10. During cross-examination he has stated that he has come to depose on notice. In para-4 he has stated not to know till today who had snatched his motorcycle. He received his motorcycle from the P.S. During cross examination he has stated to have deposed voluntarily without any fear or coercion. Lastly in para 6 he has stated that he can not identify the accused persons upon seeing them.

11. The accused persons have completely denied the evidences against them in their statement under section 313 of the Cr.P.C and have pleaded innocence.

12. The Court on the basis of materials available on record finds that there is nothing available on record against the accused persons. In the present case the charges were framed on 03.11.2023 and the prosecution evidence was closed on 23.03.2026. The Court finds that the informant himself was an eye witness of this case but during cross examination he has stated not to identify the accused persons before the Court. He has also stated not to know till today who had snatched his motorcycle. He has further stated that he can not identify the accused persons upon seeing them. The Prosecution could produce only two witnesses despite given ample opportunity of spanning almost three years to produce the witness. The Prosecution could not produce the IO of this case before the Court. On perusal of record it is clear that there is a lack of evidence in this case, due to which the charges against the accused persons cannot be proved.

13. The accused persons are facing prosecution for offences u/s-395/412 of IPC and due to non identification of the accused persons by the informant with whom the alleged dacoity and taking away of motorcycle took place, the

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presence and involvement of the accused persons in the alleged incident becomes doubtful. In every criminal trial it is the duty of prosecution to travel all the distance from 'may have' to 'must have' in order to prove the guilt of the accused persons in commission of the offence charged with, so as to enable the Court to come to a right conclusion. None of the essential ingredients of the offences charged with are found fulfilled in the present case. The prosecution sadly has failed in this case to even establish the charges against the accused persons. The Court finds the prosecution to have failed in proving the charge against the accused persons as such the accused persons are held not guilty of the offences charged u/s-395/412 of IPC.

ORDER

14. The accused 1. Nitish Kumar son of Sakindra Yadav, resident of Mahadev Bigha, PS-Warsaliganj, District-Nawada 2. Pramod Yadav son of Sitaram Yadav resident of Pansagwa, PS-Kauwakol, District-Nawada are hereby acquitted of all charges u/s-395/412 of IPC in this case. The accused persons are on bail, hence they are discharged from the liabilities of their bail bonds. However in terms of Section 437(A) Cr.P.C. both the accused persons are directed to furnish personal bond in the sum of Rs. 10,000/- Pursuant to compliance of Section 437(A) Cr.P.C. the file be consigned to the Record Room.

Dictated, corrected, signed and pronounced by me in the open Court.

(Sudhir Sinha)
Distt. & Addl. Sessions Judge-II
Jamui.
20.04.2026

(Sudhir Sinha)
Distt. & Addl. Sessions Judge-II
Jamui.
20.04.2026

Date of Judgment/Order	20.04.2026
Date of Reserving/Order	09.04.2026
Uploading Date	20.04.2026
Uploaded by	Ankit Raj, Court Reader cum D.W