

(Sessions Trial No. 286 of 2025)
In the court of Sri Sanjay Kumar Sinha-II, DAJ-II, Jehanabad

District: Jehanabad,

In

The Court of District & Additional Sessions Judge-II, Jehanabad

Present:-

Sanjay Kumar Sinha-II
Dist & Addl. Sessions Judge-II,
Jehanabad

Sessions Trial No- 286 of 2025

CIS Registration No- 286/2025

Shakurabad PS Case No. 62/2025

Dated, Jehanabad the 04th day of May, 2026

(1) State through Amitendra Kumar, aged about 52 years, Principal to Utkramik
Madhya Vidyalaya, Salapur, Faridpur, Ratni, Dist. Jehanabad

.....Prosecution

Vs

(1) Nityanand Sharma @ Gunga, aged about 56 years, S/o Late Jairam Sharma, R/o
Vill Pinjaura, PS Shakurabad, Dist Jehanabad

.....Accused Person



(This case was committed to the court of sessions vide order dated 25.06.2025 passed
by the court of Chief Judicial Magistrate, Jehanabad arising out of Shakurabad PS Case
No. 62 of 2025, Gr. No. 1118 of 2025 Cognizance under Sections 331(4), 305, 317(4)
of BNS, 2023.)

Charge Framed under Sections:- 331(4), 305, 317(4) of BNS, 2023.

Counsel for the Prosecution:- Sri Bindu Bhushan Prasad,.....Ld. A.P.P.

Counsel for the Defence:- Sri Baidyanath Sharan,.....Ld. Adv. LADCS

J U D G M E N T

1. The sole accused namely, Nityanand Sharma @ Gunga of this case stands charged for the offences punishable under Sections 331(4), 305, 317(4) of BNS, 2023.

2. The prosecution case in brief as per the informant who is principal of Utkramit Madhya Vidyalay, Salapur, Faridpur, Ratni, Jehanabad, submitted his written application alleging therein that on Saturday, he locked the school on and went to his home. On Monday at 6:30 am, he got information by the villagers that theft took place in school by breaking into the window of the school. After reaching school, he saw the window was broken while cutting the rod and the victuals kept in the school for midday meal such as 182 kg rice, pulse 45 kg, golki 900 gram and gram 7 kg were found missing. Thereafter, he came to know from villagers that a thief has also been caught who is dumb and named as Nityanand Sharma. Accordingly, the FIR is registered.

3. On the basis of the written report of the informant Amitendra Kumar, Shakurabad PS Case No. 62 of 2025, for the offences punishable under Sections 331(4), 305, 317(4) of BNS, 2023 was registered against accused Nityanand Sharma, pursuant to which, investigation commenced and after completion of investigation, the O submitted Charge Sheet bearing No. 132 of 2025 dated 09.04.2025, for the offences punishable under Sections 331(4), 305, 317(4) of BNS, 2023 against the above mentioned accused to which cognizance was also taken by the Id. Court below vide order dated 23.05.2025 for the offences punishable under Sections 331(4), 305, 317(4) of BNS, 2023 and the case record was committed on dated 25.06.2025 to the Court of Sessions from where the case was ultimately transferred to this Court for trial and disposal.

4. On appearance of the accused person, Charge has been framed for offences under Sections 331(4), 305, 317(4) of BNS, 2023, by the Court of Sessions and the charge has been read over and explained to him in Hindi to which he denied the allegations and claimed to be tried.



5. After closure of prosecution evidence, the statement of the accused was recorded u/S 313 CrPC to which he again denied the allegations and pleaded not guilty.

F I N D I N G S

6. In order to prove its case, the prosecution has been able to produce altogether only four witnesses out of six chargesheet witnesses viz. PW-1 Amitendra Kumar, PW-2 Amit Kumar Das, PW-3 Keshwar Paswan and PW-4 Shambhu Nath Singh.

Apart from these, the prosecution has also been exhibited the following documents:

- | | | | |
|------|------------|---|--|
| I. | P-1/PW-1 | - | Writing and Signature of the informant upon the written application. |
| II. | P-2/PW-4 | - | Writing and Signature of SI Shambhu Nath Singh upon the seizure list of the seized articles. |
| III. | P-3/PW-4 | - | Signature of witness Pritam Kumari upon the seizure list. |
| IV. | P-3/1/PW-4 | - | Signature of witness Puja Kumari upon the seizure list. |
| | P-4/PW-4 | - | Writing and Signature upon the charge Sheet No. 132/2025 dt. 09.04.2025. |

4.5.2025



7. PW-1 is Amitendra Kumar, who is the informant of this case, who is the Principal of the school where theft has took place. This witness has supported the case of the prosecution and has stated in his examination-in-chief "10 मार्च 2025 की घटना है। सुबह के साढ़े 6 बजे का समय था। मैं उस समय अपने घर पर था। ग्रामीणों द्वारा मोबाईल से सूचना मिली कि उत्कर्मित मध्य विद्यालय, सलारपुर, रतनी विद्यालय में खिड़की तोड़ कर चोरी कर लिया गया। सूचना मिलने पर मैं विद्यालय गया तो देखा कि खिड़की का रड काटकर खिड़की तोड़ा हुआ है और विद्यालय में रखा हुआ मध्यान भोजन की सामग्री लगभग 182 किलो, चावल, 45 किलो, दाल, गोलकी 900 ग्राम और 7 किलो चना विद्यालय से गायब है। (para 1)" "ग्रामीणों द्वारा बताया गया कि चोर गूंगा है

और पकड़ा गया है, जिसका नाम नित्यानंद शर्मा है और उसके पास से चावल दाल पुलिस द्वारा बरामद की गयी। (para 2)। “इस आशय का एक लिखित आवेदन में स्थानीय थाना शकुराबाद को दिया, यह वही आवेदन है जो मैंने थाना में दिया था, जो मेरे लिखावट एवं हस्ताक्षर में है, जिसे मैं पहचानता हूँ। इसे प्रदर्श P1/PW1 अंकित किया जाता है। (para 3)। “पुलिस ने मुझसे पूछताछ की थी। (para 4)।”

During the course of cross-examination, this witness has been remained more or less intact. However, this witness has admitted vide para 6 that he could not state the quantity of food grains available and consumed “मार्च, अप्रैल और मई इन तीनों महिनों का मध्यान भोजन था। अनाज तीन महिनों का एक साथ आता है। कुल कितना अनाज आया था, वो याद नहीं है और कितना अनाज खर्च हुआ वह याद नहीं है। (para 6)।” Vide para 10, he has admitted that the accused was named in the FIR on the basis of what villagers told him, he did not see the occurrence himself “ग्रामीणों के कहे अनुसार मैंने एफआईआर में नाम दिया था। पूर्व से मैं अभियुक्त को नहीं जानता था। (para 10)।”

8. PW-2 is Amit Kumar Das who is a teacher in the said school. This witness too has supported the case of the prosecution and has stated in his examination-in-chief that “10 मार्च 2025 की घटना है। मैं उस समय अपने घर पर था। ग्रामीणों द्वारा प्रधानाध्यापक अमितेन्द्र कुमार के द्वारा सूचना दी गयी, कि विद्यालय में चोरी हो गया, तो प्रधानाध्यापक ने इस बात की सूचना मुझे दी तब मैं सूचना पाकर विद्यालय गया। (para 1)। “जब मैं वहाँ गया तो देखा कि विद्यालय की खिड़की टूटी हुई है और विद्यालय से 182 किलो चावल, दाल 45 किलो और चना 7 किलो चोरी हुआ है। मुझे ग्रामीणों द्वारा बताया गया कि चोर पकड़ा गया है। (para 2)।”

During the course of cross-examination, this witness has been remained more or less intact. However, this witness has admitted vide para 4 that “मध्यान भोजन कितना था, यह मैं नहीं बता सकता। (para 4)।” This witness has further admitted vide para 6 that “6 आज न्यायालय में पहली बार गवाही दे रहा हूँ इसके पहले इस केस के संबंध में मैं कहीं भी गवाही नहीं दिया हूँ। (para 6)।”

9. PW-3 is Keshwar Paswan, who is also a teacher of the said school. This witness too has supported the case of the prosecution and has stated in his examination-in-chief that “घटना 10 मार्च 2025 की है। मैं उस समय अपने घर पर था। प्रधानाध्यापक अमितेन्द्र कुमार द्वारा फोन पर सूचना दिया गया कि स्कूल में चोरी हो गयी है। मैं स्कूल गया तो देखा कि स्कूल का खिड़की टूटा हुआ है और कमरा में अनाज बिखरा हुआ था। स्कूल से लगभग 182 किलो चावल, 45 किलो दाल, 900 ग्राम गोलकी और 7 किलो चना चोरी हो गया था। (para 1)। “चोरी कौन किया था नहीं बता सकता हूँ। (para 2)। “पुलिस हमसे पूछताछ की थी। (para 3)।”

During the course of cross-examination, this witness has taken hostile attitude and has demolished the prosecution version of the story and has stated vide para 3 that "घटना को अपनी आँखों से नहीं देखे थे।(para 3)". Further, this witness has stated vide para 4 that "मिड डे मिल से मेरा कोई संबंध नहीं है।(para 4)" Further, this witness has stated vide para 7 that "घटना के संबंध में आज से पहले गवाही नहीं दिये थे। (para 7)".

10. PW-4 is Shantibhu Nath Singh who is the IO of this case. This witness too has supported the case of the prosecution and has stated in his examination-in-chief that on March 10, 2025, he was posted as a Sub-Inspector at Shakurabad PS. On that day, he took over the charge to investigate Shakurabad Police Station case number 62/2025, After assuming charge, he observed the FIR and recorded it in the case diary. After that, he went to the PO and inspected the scene of this incident. The PO is Utkamit Madhya Vidyalaya located in village Salarpur, in which there is a room containing mid-day meal material whose boundaries are as follows: verandah in the north, graveyard in the south, class room in the east, office room in the west. Thereafter, re-statements of informant Amitendra Kumar and witnesses Keshav Paswan, Anil Kumar Das, lady constable 778 Pritam Kumari, lady constable 770 Pooja Kumari were taken at the PO and also recorded the same in the case diary. Thereafter, he had prepared a seizure list of the material recovered at the scene of the incident, which was kept with him and it was in the handwriting and signature of him which he identified the same and marked as Exhibit P2/PW4 and on that seizure list, where the witness Pritam Kumari and Puja Kumar was also marked which was identified and marked as Ext. P-3/PW-4 and P-3/1/PW-4. Further, it has been stated that based on the evidence of the altogether five witnesses and upon inspection of the PO, charge sheet no. 132 of 2025 dt. 09.04.2025 was submitted under Sections 331(4), 305, 317(4) of BNS, 2023 against the accused Nityanand Sharma @ Gunga. The entire charge sheet was in the handwriting and signature of this witness which has been identified and marked as Ext. P-4/PW-4.

During the course of cross-examination, this witness has been remained more or less intact.



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Considering the evidence aforesaid of witnesses there is no eyewitnesses to the occurrence. No recovery has been satisfactorily proved. There is no legally admissible evidence establishing that the accused Nityanand Sharma @ Gunga has committed house-breaking or theft or he was in possession of the alleged stolen property. The prosecution witnesses themselves have not supported the prosecution case on material particulars and have substantially contradicted their examination-in-chief. It is settled principle of criminal jurisprudence that the prosecution must prove its case beyond reasonable doubt. Suspicion, however, strong cannot take the place of proof. The evidence adduced in the present case is wholly insufficient to establish the guilt of the accused Nityanand Sharma @ Gunga beyond reasonable doubt. In view of the discussions made above, this court has come to the findings and hold that prosecution has failed to substantiate the charges levelled against the accused, Nityanand Sharma @ Gunga beyond reasonable doubts. Hence, accused namely, Nityanand Sharma @ Gunga is hereby found not guilty for the the offences punishable under Sections ~~302, 420 & 34 of the IPC~~ ^{331(4), 205 and 317(4) of BNS, 2023} and Section 27 of the Arms Act. In the result, accused namely, Nityanand Sharma @ Gunga is hereby **acquitted** forthwith from the charges levelled against him and set at liberty thereof. Accused Nityanand Sharma @ Gunga is in custody. Thereafter O/c is directed to issue release order.

(Dictated & Corrected)

Sgt. Kumar SL

Addl. Sessions Judge-II
Jehanabad
04.05.2026

(Dictated)

Sgt. Kumar SL

Addl. Sessions Judge-II
Jehanabad
04.05.2026

