

**In the Court of Mr. Manish Ranjan
Judicial Magistrate I Class cum Additional Civil Judge (Jr. Division)
Benipatti (Madhubani)
GR. Case No. 2113/2010
State Of Bihar (Through Devashish Pradhan) vs Israfil Nadaf & Ors**

FORM- A

**IN THE COURT OF MR. MANISH RANJAN, JUDICIAL
MAGISTRATE Ist CLASS, BENIPATTI (MADHUBANI)**

Present: - Mr. Manish Ranjan

Date of Judgement- 11/03/2026

GR. Case No. 2113/2010

Informant	State Of Bihar (Through Devashish Pradhan)
Represented by	Ld. APO Divyansh Pandey
Accused	1. Sanjay Singh s/o Surendra Singh Resident of Mohammadpur, P.S Benipatti District- Madhubani 2. Md. Moti s/o Md. Balli Resident of Ladaut, P.S Benipatti District- Madhubani 3. Md. Moulvi s/o Md. Gaffar @ Md Sattar Resident of Gouvipur, P.S Benipatti District- Madhubani
Represented by	Ld. Counsel Brijesh Kumar

FORM- B

Date of offence	30.08.2010
Date of Filing of FIR	31.08.2010
Date of Cognizance	02.01.2018
Date of Framing of Charge	19.01.2026
Date of Commencement of Evidence	20.01.2026
Date on which Judgement Reserved	N/A
Date of Judgement	11.03.2026
Date of Sentencing Order, if any	N/A

DETAILS OF ACCUSED

Rank of Accused	Name of Accused	Date of Arrest	Date of Release on bail	Offences charged with	Acquitted/ Convicted	Sentence Imposed	Period of Detention during trial for the purpose of Section 428 Crpc
A1	Sanjay Singh s/o Surendra Singh	-	10.05.2011	461 IPC 379 IPC	Acquitted	N/A	N/A
A2	Md. Moti s/o Md Balli	-	10.05.2011	461 IPC 379 IPC	Acquitted	N/A	N/A
A3	Md. Moulavi s/o Md. Abdul Gaffar@ Md. Sattar	-	10.05.2011	461 IPC 379 IPC	Acquitted	N/A	N/A

FORM – C

List of Prosecution/ Defense/ Court witnesses

A. Informant Witness

Rank	Name	Nature of Evidence Eye Witness/ Panch Witness/ Police Witness/ Medical Witness
PW-1	Devashish Pradhan	Hostile Witness

B. Defense Witness

Rank	Name	Nature of Evidence Eye Witness/ Panch Witness/ Police Witness/ Medical Witness
NIL	NIL	NIL

C. Court Witness

Rank	Name	Nature of Evidence Eye Witness/ Panch Witness/ Police Witness/ Medical Witness
NIL	NIL	NIL

List of Prosecution/Defense/Court Exhibits

A. Prosecution Exhibits

In the Court of Mr. Manish Ranjan
Judicial Magistrate I Class cum Additional Civil Judge (Jr. Division)
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Sno.	Exhibit No.	Description
NIL	NIL	NIL

B. Defense Exhibits

Sno.	Exhibit No.	Description
NIL	NIL	NIL

C. Court Exhibits

Sno.	Exhibit No.	Description
NIL	NIL	NIL

D. Material Objects, if any

Sno.	Material Object No.	Description
NIL	NIL	NIL

JUDGEMENT

1. The present case emerges from the FIR filed by the informant Devshish Pradhan, S/o Late Ram Vriksha Pradhan, where the FIR was registered on date 31.08.2010 U/s 461, 379 of IPC against **Unknown thief**.

PROSECUTION STORY

2. The informant of the case filled the FIR under section U/s 461, 379 of IPC against unknow thief on date 31.08.2010..
3. The FIR narrates that the informant on 30.08.2010 in night 10 PM after closing shop went at his home and early morning 6 A.M son of house owner gave information that shetter of shop has been tempered and on this information informant came at his shop and found that 16 set units of mobile of different company has been stolen by the unknown thief and also found that some easy recharge mobile of different company is also stolen.
4. The police on investigation submitted the final Report, where they have named 1) **Sanjay Singh s/o Surendra Singh** 2) **Md. Moti s/o Md Balli** 3) **Md. Moulavi s/o Md. Abdul Gaffar @Md Sattar** of U/s 461, 379 of IPC.

INVESTIGATION & COGNIZANCE

5. On the basis of the aforesaid FIR Benipatti P.S Case No. 120/2010, was registered and investigation started. In the course of the investigation, Investigating Officer took the statement of the witnesses named in the final form and subsequently Final Form was submitted against the aforesaid persons on conclusion of investigation U/s 461, 379 of

IPC and cognizance was taken by the court on 02.01.2018 against the aforesaid accused persons for the offence U/s 461, 379 of IPC.

FRAMING OF CHARGE

6. Charge was explained to the aforesaid accused person on 19.01.2026 for the offence U/s 461, 379 of IPC. and was read over & explained to the accused in Hindi as well as in English. They pleaded not guilty and claimed to be tried.

STATEMENT U/S 313 Cr.PC

7. Statement U/s 313 Cr.P.C of the aforesaid accused persons was recorded 18.02.2026, where they have pleaded themselves as a innocent person and denied all the claims & charges against them.

POINT OF DETERMINATION

8. Now the only point of determination before this court is whether the prosecution has been able to prove its case beyond reasonable doubts or not on the following charges-
- i) Whether the accused persons have committed an offence under Section 461 of Indian Penal Code?
 - ii) Whether the accused persons have committed an offence under Section 379 of Indian Penal Code?

FINDINGS AND MARSHALLING OF EVIDENCE

A. PROSECUTION EVIDENCE

9. Upon perusal of the case record it transpires that, there is one witnesses to this case who has appeared before the court and asseverate their statement on oath & marked as PW-1.
10. PW-1 in his examination in chief has asseverated that he has not seen the incident and not known about any occurrence of incident. In his Para 4, it is stated that he had not seen any one committing theft. It is also noted in Para 6 that he had compromised the case.
11. While in his cross examination, he has clearly denied all the claims of the prosecution and not supported the statement made to police.

B. DEFENCE EVIDENCE

12. Not a single witness has been examined on behalf of defence. However, the defence counsel pleaded complete innocence of the accused persons. Further, he stated that the prosecution story has not been supported by the witnesses at all and therefore, the prosecution case stands on doubts. Hence, the accused persons should be acquitted.

C. FINDINGS

13. "Hostile witness is said to be when a party calls in a witness to depose in its own favor, instead the witness goes against the party calling him. This situation arises in many of the cases where witnesses do not give answers in favor of the party calling the person as a witness. The court has to declare the witness as a hostile one. It is not the option of the party calling the witness to do so. The adverse reference by the witness towards the person who calls him is a manner which helps the court to uphold or reject the statement of witness if crucial to a case and the trial."

14. The Hon'ble Supreme court in *Krishan Chander v. State of Delhi* (1999) 8 SCC 624 held that, " *the mere fact that a witness is declared hostile by the party calling him and allowed to be cross-examined does not make him an unreliable witness so as to exclude his evidence from consideration altogether.*" and in the same judgment further held: "*the court cannot suo motu make use of statements to police not proved and ask questions with reference to them which are inconsistent with the testimony of the witness in the court. The words in section 162 CrPC "if duly proved" clearly show that the record of the statement of witnesses cannot be admitted in evidence straightaway nor can be looked into but they must be duly proved for the purpose of contradiction by eliciting admission from the witness during cross-examination and also during the cross-examination of the investigating officer. The statement before the investigating officer can be used for contradiction but only after strict compliance with section 145 of the Evidence Act i.e. by drawing attention to the parts intended for contradiction.*"

15. In the present case, evidence adduced by the hostile evidence are not in a manner to be corroborated. There is no evidence which could establish or shifts burden of proof on the aforesaid accused. The prosecution witnesses are unable to establish the case against the accused. To establish the case against the accused the prosecution needs to avowed that the accused has committed the said offence. Therefore, no evidence was adduced to show the culpability of the accused.

16. It is a case of no evidence. Sufficient time was given to the prosecution to adduce the evidence but not a single witness has been able to postulate and vindicate the facts in issue.

17. Section 101 states that “*Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.*”

In a nutshell, this section states that whenever any person states a fact in front of the court, the most obvious reason behind that is to satisfy the court so that they give a decision in his or her favour. For that, it is the duty of the person concerned to prove the facts in totality by himself.

18. Section 102 states that “*The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.*”

This Section attempts to clarify the issue ‘on whom does the burden actually lie?’ It mentions that the person, who would suffer the consequences if the fact that was stated, is not proved.

19. The presumption of Innocence is a fundamental principle of criminal jurisprudence which asserts that a person should be presumed innocent unless and until proved guilty. It is derived from the Latin maxim, *ei incumbit probatio qui dicit, non qui negat* - the burden of proof is on he who declares, not on he who denies.

The sixth century Digest of Justinian provides as a general rule that the burden of proof is on him who asserts and not on one who denies. As stated by *Sankey LC (Woolmington v. DPP, 1935)*, throughout the web of English criminal law, one golden thread is always to be seen that it is the duty of the prosecution to prove the prisoner’s guilt. It is a principle of procedural fairness in criminal law, whose justifications may be found in the social and legal consequences of being convicted of a crime, in which context the principle constitutes a measure of protection against error in the process and a counterweight to the immense power and resources of the State compared to the position of the defendant.

Justice Dickson laid down that the presumption of innocence is a hallowed principle lying at the very heart of criminal law. The presumption of innocence protects the fundamental liberty and human dignity of any and every person accused by the State of criminal conduct. An individual charged with a criminal offence faces grave social and personal consequences, including potential loss of physical liberty, subjection to social stigma and ostracism from the community, as well as other social, psychological and economic harms.

20. In light of the gravity of these consequences, the presumption of innocence is crucial. *“It ensures that until the State proves an accused's guilt beyond reasonable doubt, he or she is innocent. This is essential in a society committed to fairness and social justice. The presumption of innocence confirms our faith in humankind; it reflects our belief that individuals are decent and law-abiding members of the community until proven otherwise”.* (**R. v. Oakes, 1986**)
21. In **Mahinder Singh Dahiya v. State** (2003 CRILJ 1908) it has been held that the *“prosecution has to stand on its own legs and cannot take advantage or undue advantage of the defence put forth by the accused even if the same was found to be false or improbable. This is for the reason that the onus to prove the guilt of an accused lies on the prosecution and no onus is cast on the accused under law to prove his innocence by proceeding cogent evidence. He can prove his defence plea by preponderance of probability.”*
22. **Fazal Ali J.** stated the three cardinal principles of criminal jurisprudence namely in **Rabindra Kumar Dey v. State of Orissa**, (1977 AIR 170) where it is stated that:-
- A. That the onus lies affirmatively on the prosecution to prove its case beyond reasonable doubt and it cannot derive any benefit from weakness or falsity of the defence version while proving its case.
 - B. That in a criminal trial the accused must be presumed to be innocent unless he is proved to be guilty.
 - C. That to the onus of the prosecution never shifts.
23. The F.I.R remains uncorroborated without support of any primary or secondary evidence. The Prosecution fails to bring any witness in support and establish its burden of proof. The non-examination of total witness & hostile witness of prosecution also enervated the whole prosecution story.
24. *“Non quod”* which means no evidence, here no one came forward to adduce any direct or indirect evidence in order to support the prosecution story.
- According to Sarkar on Law of Evidence, 20 th Edition, Volume 1, “direct” or “original” evidence means that evidence which establishes the existence of a thing or fact either by actual production or by testimony or demonstrable declaration of someone who has himself perceived it, and believed that it established a fact in issue. Direct evidence proves the existence of a fact in issue without any inference of presumption.*
- On the other hand, “indirect evidence” or “substantial evidence” gives rise to the logical inference that such a fact exists, either conclusively or presumptively. The effect of substantial evidence under consideration must be such as not to admit more than one solution and must be inconsistent with any explanation that the fact is not proved. By*

direct or presumptive evidence (circumstantial evidence), one may say that other facts are proved from which, existence of a given fact may be logically inferred.

Hence, not a single cogent and sufficient evidence is emanating to affirm the allegation against the accused persons.

25. *The law on Culpability* tends the Proving a proposition by the preponderance of the evidence, which requires demonstrating that the *propositionis* more likely true than not true. While Section 101 Evidence act, shifts the primary burden of proof on prosecution to establish the guilt of the accused. In *Dahyabhai Chhaganbhai Thakkar vs. State of Gujarat*, (AIR 1964 SC 1563), the Hon'ble Supreme Court has ruled that *it is the fundamental principle of criminal jurisprudence that an accused is presumed to be innocent and, therefore, the burden lies on the prosecution to prove the guilt of the accused beyond reasonable doubt. This general burden never shifts and it always rests on the prosecution.*

26. In a criminal trial, the burden of proving everything essential to the establishment of the charge against an accused always rests on the prosecution and there is a presumption of innocence in favour of the accused until the contrary is proved. This general burden never shifts and it always rests on the accused.

27. Therefore, the prosecution has failed in proving the case U/s 461, 379 of IPC against the accused persons beyond all reasonable doubts and accused deserves to be acquitted.

ORDERED

In the light of material on record, the argument advanced, this court is of considered opinion that accused persons

1) Sanjay Singh s/o Surendra Singh 2) Md. Moti s/o Md Balli 3) Md. Moulavi s/o Md. Abdul Gaffar @Md Sattar deserves to be acquitted and is accordingly acquitted.

It is hereby ordered that accused persons

1) Sanjay Singh s/o Surendra Singh 2) Md. Moti s/o Md Balli 3) Md. Moulavi s/o Md. Abdul Gaffar @Md Sattar are acquitted from the charge of offences punishable under Sections U/s 461, 379 of the Indian Penal Code, 1860.

The sureties are discharged from their liabilities as to bail bond. Accused person is put to liberty. Warrant of arrest, if any, issued by this court in relation to the arrest of the accused persons stands cancelled.

The case stands disposed of. Office Clerk is directed to deposit the record in record room as per law.

Typed and corrected by me

Pronounced by me in the open court

(MANISH RANJAN)
Judicial Magistrate I Class
Cum additional Civil Judge
Benipatti (Madhubani)

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Judicial Magistrate I Class
Cum Additional Civil Judge
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