

<u>IN THE COURT OF A.C.J.M - 1st (W), Muzaffarpur</u> CIVIL COURT, MUZAFFARPUR, BIHAR DATE OF JUDGMENT:- 31.07.2026 Kudhani CASE NO:- 254/2000 Gr. NO:- 1777/2000	
Informant	<i>Prabhat Ranjan Srivastava, Officer-in-Charge (I/c) Fakuli O.P, P.S.-Kudhni, District-Muzaffarpur.</i>
Represented by	Ld. A.P.O Ayush Sinha
Accused	1. Mahesh Sharma, S/o Late Hijan Sharma, R/o -Village- Fakuli, P.S- Kudhani, District – Muzaffarpur
Represented by	Advocate- Chandan Kumar Sharma

FORM B

Date of offence	06.12.2000
Date of F.I.R.	06.12.2000
Date of Charge sheet	29.07.2001
Date of cognizance	28.08.2001
Date on which charge framed / Accusation Explained	02.01.2002
Date of commencement of evidence	28.02.2002
The date on which Judgment is reserved	31.07.2026
Date of Judgment	31.07.2026
Date of sentencing Order, if any	-----

Accused details

The rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offences charged with	Acquittal or conviction	Sentence Imposed	Detention during trial u/s 428 Cr. P.C
1.	Mahesh Sharma	11.07.2001 11.11.2011 25.03.2019	10.10.2001 17.11.2011 27.03.2019 01.04.2026	U/s- 379, 411 of IPC and 33 Forest Act	Acquittal		102 days

Judgment

1. In the instant case accused person namely, 1. Mahesh Sharma is facing trial for committing the offences punishable U/s 379, 411 of IPC and 33 Forest Act.

2. As per the prosecution story in short is that, the informant alleged that at on 06.12.2000 at 10:15 am, on the Eastern Dam of Gandak Canal under Fakuli village at 9:30 am, he was at the OP, when he received a secret information that some people were cutting and taking away the government's Sheesham tree on the Gandak Canal. On the information, Fakuli OP Sanha no. 95, dated 06.12.2000 After registering Sanha, Sub-Inspector Ibrar Ahmed and Home Guard with Armed Force Jawans 227 Ram Krishna Jha, Home Guard No. 11306 Raja Ram Jha, Home Guard No. 712 Sachindra Dubey, Home Guard No. 517 Baikuth Pandey and Home Guard No. 12594 Shila Nath Jha came to the Gandak Canal Dam for verification and saw that Butan Rai, Mahesh Sharma and 4-5 unknown people of the Fakuli villager were picking up cut Shisham wood/logs from the Eastern Canal's Dam. On seeing the police force, the accused left the logs towards the south and fled away. Among them, during the day, the accused Butan Rai and Mahesh Sharma were identified, whom they already know. 14 other trees were found cut at the spot. Local people told that earlier these people used to cut Shisham wood from the Eastern Dam of the canal and take it elsewhere. He has seized a Seven feet and Six and a half feet long logs of Sheesham wood lying at the spot of incident in front of two local witnesses 1. Lal Babu Roy and 2. Raj Nandan Paswan and he had recorded his self-statement.

3. On the basis of written report furnished on behalf of informant, the case was registered bearing F.I.R. No. 254/2000 dated 06.12.2000 U/s- 379, 411 of IPC. And 33 Forest Act. Accordingly the formal F.I.R. was drawn. It set the law in motion which result in the initiation of process of investigation after completion of the same the police submitted charge-sheet No. 111/2001 dated 29.07.2001 against the above named accused persons for the offences U/s 379, 411 of IPC and 33 Indian Forest Act and the S.D.J.M. West, Muzaffarpur took the cognizance against the accused persons for the offence U/s 379, 411 of IPC and 33 Forest Act on dated 28.08.2001.

4. The charges were framed and explained to the accused person for committing the offence punishable U/s 379, 411 of IPC and 33 Forest Act on dated 02.01.2002 to which he pleaded not guilty and claimed to be tried.

5. After prosecution evidence closed the accused persons statement were recording U/s 313 Cr.P.C. and he pleaded his innocence and has been falsely implicated in this case.

6. Now the question for judgment before me is that whether the prosecution has been able to prove the charges leveled against the accused person beyond the shadow of all reasonable doubts or not?

FINDINGS

7. In the course of trial prosecution has produced altogether two witnesses in support of his case. Pw-1 Prabhat Ranjan Srivastava and Pw-2 Raja Ram Jha are witness of this case. The handwriting and signature of self- statement of Informant is marked Ext-1. And handwriting and signature of informant and witnesses on Seizure list is also marked Ext-1/1. Any other oral or documentary evidence has not been produced on behalf of the prosecution. Defense has not produced any oral evidence or documentary evidence .

8. Now I shall discuss the evidences available on the record in the light of the charges leveled against the accused persons.

9. PW-1 is Prabhat Ranjan Shrivastav who is informant of this case. He has stated in his chief examination that on 06.12.2000, he was posted as the In-charge of Fakuli OP. at about 8:30 A.M., information was received at the O.P. that some persons were cutting and carrying away Government Sheesham wood from the Gandak Canal area. On receiving the said information, he proceeded to the spot along with the armed force in connection with Fakuli OP Sanha No.- 95 registered. Upon reaching the place

of occurrence, accused Bootan Rai, Mahesh Sharma, and five other unknown persons were carrying away the chopped wood. On seeing the police party, they fled away from the spot. Further he deposed that recorded his self-statement, which was in his own handwriting and bear his signature, and the same was marked as Exhibit-1. He also prepared the seizure list in the presence of two independent which is in his handwriting and signature. The handwriting in the seizure list and signature of the witnesses on the seizure list was marked as Exhibit-1/1, Further he deposed that accused Mahesh Sharma is present in Court today. He stated that he recognizes the said accused as well as another accused person. Further he has deposed in para-3 of his **cross examination** that he did not mention the name of the informer in his self-statement. He also did not mention the vehicle that was allegedly to be used for carrying the wood. The boundaries of the place of occurrence were not described in the self-statement. However, he has mentioned the presence of the armed force as well as the witnesses to the seizure list. He has also mentioned the manner in which the accused persons fled from the spot, including the direction in which they ran away. It was also mentioned that they fled while carrying a piece of wood. He did not mention in self statement regarding any wood-cutting machine, He also did not mention whether the tree was new or old. There was a Sheeshm tree. He does not remember whether he had mentioned the number of trees or not. He also did not mention the khata, khesara, or area details of the land. However, he has stated that the land belonged to the Bihar Government, though no government documents in this regard were mentioned in the statement. Further he deposed in para-2 of his cross-examination that in his self-statement he did not mention the presence of only two accused persons at the spot rather, he had mentioned four to five persons. He did not arrest any of the accused persons. He had mentioned the procedure relating to identification of the accused in his self statement. He does not remember the boundaries of the accused persons' houses. He stated that he knew both the accused persons from before, as they were

residents of his area. However, he is unable to produce any identification document in support thereof. He further stated that he never had the opportunity to verify any identification documents of the accused persons, nor did the accused ever produce such documents before him. In his self-statement, he had not specifically mentioned whether he knew the accused personally or in his official capacity.

10. PW-2 is Raja Ram Jha. He has stated in his examination-in-chief that on 06.12.2000, he was working at Fakuli OP at the time of the alleged occurrence. He further states that he has no knowledge whatsoever about the incident. He also states that the police did not record his statement during the course of investigation. This witness is declared hostile at the request of the prosecution. Further he deposed in para-2 that it is not true that he had stated before the police that the OP In-charge, along with other armed guards, had arrived at the eastern embankment of the Gandak Canal at Fakuli and had seen about 6–7 persons carrying Sheesham tree logs, and that on seeing the police force all of them fled away with the logs. He further denies the suggestion that the OP In-charge had identified accused Mahesh Sharma. Further he deposed that the witness further denies the suggestion that he is suppressing the true facts after having met the accused persons. Further he has stated in his cross-examination that he had remained at Ahiyapur Police Station for 10 days. Apart from that this court finds that neither I.O, forest officer and nor seizure list witness and any other independent witnesses have turned up before the court for examination to support the prosecution case cumulatively, makes the prosecution case is highly doubtful.

11. The Learned A.P.O. for prosecution contended that the prosecution witness has fully supported the case of prosecution. Hence, it got succeeded in proving its case beyond the shadow of all reasonable doubts. Thus, the accused persons may be convicted for the offences charged.

12. On other hand, the Learned Advocate for defence contended that the accused person has been falsely implicated in the case. It was further submitted that the most of the prosecution witnesses are interested in nature hence cannot be relied upon and prosecution has failed to prove its case beyond the shadow of all reasonable doubts. Accordingly, the defence deserves the acquittal of the accused persons.

13. Now regarding appreciation of evidence the prosecution has charge sheeted the accused persons u/s 379, 411 of I.P.C and 33 Forest Act and to prove it merely produced two witnesses namely PW-1 Prabhat Ranjan Srivastava and PW-2 Raja Ram Jha. No documentary evidence has been brought on record. In this case I.O and seizure list witness and any other independent witnesses have not examined which creates a serious dent in the prosecution case. but were it sufficient to prove the charge as alleged. It is discussed as per material available on record as follow.

14. So far as section 379 of I.P.C. is concerned that to establish an offence under Section 379 IPC, it must be proved that to constitute an offence under Section 379 IPC, the prosecution must prove that the property was movable property; that the property belonged to another person; that it was taken dishonestly; that it was taken without consent; and that there was movement of the property in order to commit theft. In the present case, although PW-1 alleged that the accused were removing Sheesham logs, no government record has been produced to establish that the trees belonged to the Government or Forest Department. Neither any revenue record, canal department record nor forest record has been produced. No wood was recovered from the possession of the accused. The seizure list merely proves seizure of two axes from the place of occurrence and not recovery from the possession of the accused. PW-2, who was allegedly accompanying the police party, has not supported the prosecution case and has denied the occurrence itself. Therefore, the essential ingredients of Section 379 IPC

remain unproved. Accordingly, this Court holds that the offence under Section 379 IPC is not proved.

15. So far as section 411 of I.P.C. is concerned that to establish an offence under Section 411 IPC, it must be proved that section 411 IPC requires proof that: the property was stolen; the accused was in conscious possession of the stolen property; he knew or had reason to believe that the property was stolen. In this case, No stolen property has been recovered from accused Mahesh Sharma. There is absolutely no evidence regarding conscious possession of any stolen wood. In absence of recovery, Section 411 IPC cannot be attracted. Accordingly, this charge also fails. Accordingly, this Court holds that the offence under Section 411 IPC is not proved.

16. So far as section 33 Indian Forest Act. is concerned that to establish an offence under Section Indian 33 Forest Act, it must be proved that the place was a Reserved/Protected Forest or Government Forest; that the trees standing thereon were Government trees; that the accused illegally cut or removed those trees. In the instant case, No Forest Officer has been examined. No notification declaring the land as Reserved Forest has been produced. No forest map has been produced. No ownership document has been proved. No documentary evidence has been produced showing that the trees belonged to Government. Therefore, the statutory ingredients of Section 33 of the Forest Act have not been proved. Accordingly, this Court holds that the offence under Section 33 of the Indian Forest Act is not proved.

17. The prosecution examined only two witnesses. PW-1 is Prabhat Ranjan Srivastava, who is the informant himself. Although he supported the prosecution story, several material omissions appear from his cross-examination: name of informer not disclosed; boundaries of place of occurrence not mentioned; No khata or khesra mentioned; No government document regarding ownership produced; No vehicle details mentioned; No recovery from

accused; No identification document regarding accused. Thus, his testimony requires corroboration. PW-2 Raja Ram Jha completely turned hostile. He categorically stated that he had no knowledge regarding the occurrence. Nothing substantial could be elicited during cross-examination by the prosecution. Therefore, his evidence does not support prosecution. Although the testimony of a hostile witness is not to be discarded in toto, in the present case PW-2 has not supported any material part of the prosecution story. Hence, there remains only the uncorroborated testimony of PW-1. It is settled law that conviction on the sole testimony of an interested witness is possible only if the Court finds it wholly reliable. The testimony of PW-1 does not inspire such confidence. From perusal of his evidence it appears that his evidence contains several major contradictions and discrepancies. The prosecution failed to examine Investigating Officer, seizure witnesses, independent witnesses, Forest Department officials, Canal Department officials. The non-examination of these material witnesses has caused serious prejudice to the prosecution case. The prosecution has failed to prove ownership of trees, theft, recovery, possession, identity beyond doubt, ingredients of Forest Act. Consequently, serious reasonable doubt arises. The accused is therefore entitled to benefit of doubt. Accordingly, this Court holds that the prosecution has miserably failed to establish the charges under Sections 379 and 411 of the Indian Penal Code and Section 33 of the Indian Forest Act against accused Mahesh Sharma beyond all reasonable doubt.

ORDER:

18. Accordingly, the accused person namely, **1. Mahesh Sharma** facing trial in this case is hereby **acquitted** from the charges of offences u/s 379, 411 of IPC and 33 Indian Forest Act of IPC by extending to him the benefit of doubt and their bailors are also discharged from the liabilities of their respective bail bonds. The period of detention undergone by the accused person shall be set

off in accordance with section 428 Cr.P.C. The seized articles, if any, shall be disposed of in accordance with law after expiry of the statutory period of appeal. Let a copy of this judgment be supplied free of cost to the accused. And also, o/c is directed to deposit the record in the record room as per the rule.

19. Judgment has been written, (typed) corrected dated signed and sealed and pronounced by me in open court today dated 31st Day of July, 2026.

Dated: 31st Day of July, 2026.

Typed and Corrected

Sd/-

(Naresh Mahto)

Additional Chief Judicial Magistrate 1st
Muzaffarpur (West)

APPENDIX
FORM C
LIST OF PROSECUTION/DEFENCE/COURT WITNESSES
A. PROSECUTION WITNESS

Rank	Name
PW-1	Prabhat Ranjan Srivastava
Pw-2	Raja Ram Jha

B. DEFENCE WITNESS

Rank	Name
DW	NA

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS
A: PROSECUTION

Sr. No.	Exhibit Number
1.	Ext-1 - Handwriting and signature of self self statement of Informant
2.	Ext-1/1- handwriting and signature of informant and witnesses on Seizure list.

B: DEFENCE

Sr. No	Exhibit Number
1	NIL

C: COURT EXHIBITS

Sr. No	Exhibit Number
1	NIL

C: MATERIAL EXHIBITS

Sr. No	Exhibit Number
1	NIL

Date of Judgment/Order	31.07.2026
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