

“FORM-A”

IN THE COURT OF PRINCIPAL SESSIONS JUDGE, SHEOHAR Present:- Sri Udaywant Kumar, Sessions Judge, (Date of Judgment:- 24.02.2025) Sessions Trial No.-135/2016 Registration No.- BRSO010000372016 Ref :- In connection with Shyampur Bhatha PS Case no.-72/2014, dated-16.10.2014, bearing GR No.-713/2014, U/section:- 394 of IPC & 27 Arms Act District- SHEOHAR.	
INFORMANT	Md. Faruk Ahmad, S/o Mainul Haque, R/o Village-Ijorwara, PS-Fenhara, District-East Champaran, Bihar
REPRESENTED BY	Sri Shailendra Kumar, Ld. Public prosecutor
ACCUSED	<ol style="list-style-type: none">1. Prem Sahni, Aged-about 36 years, S/o Late Harihar Sahni, R/o Math Masauli, PS-Tariyani, District-Sheohar.2. Gajendra Sah @ Gaji Sah, Aged-about 65 years, S/o Late Sadhu Sah, R/o Village-Kahtarwa, PS-Fatehpur, Sheohar, District-Sheohar.3. Pramod Ram, Aged-about 42 years, S/o Late Chanardeo Ram, R/o Village-Mirjapur Dhobahi, PS-Fatahpur, District-Sheohar.4. Nawab Thakur, Aged-about 34 years, S/o Ramekbal Thakur, R/o Fajilapur, PS-Rajepur, District-East Champaran
ACCUSED REPRESENTED BY	PERSONS Sri Yogendra Sah, Ld. Advocate

“FORM-B”

Date of offence	15.10.2014 at 19:30 PM
Date of FIR	16.10.2014
Date of Charge sheet	CS No.-04/2015, dated-27.01.2015
Date of Cognizance	06.02.2016
Date of Framing Charges	30.03.2017
Date of Commencement of Evidence	17.10.2017
Date of which judgment is reserved	23.01.2025
Date of judgment	24.02.2025
Date of the Sentencing order, if any	Nil
Date of Amalgamate to Record	Nil

Accused Details: -

Rank of the Accused	A-1
Name of Accused	Prem Kumar Sahni @ Prem Sahni
Date of Custody	26.10.2014
Date of Release on Bail	28.01.2015
Offences Charged with	U/s-395, 397 of IPC
Whether Acquitted or convicted	Acquitted
Sentence Imposed	Nil

Rank of the Accused	A-2
Name of Accused	Gajendra Sah @ Gaji Sah
Date of Custody	17.12.2014
Date of Release on Bail	29.04.2015
Offences Charged with	U/s-395, 397 of IPC
Whether Acquitted or convicted	Acquitted
Sentence Imposed	Nil

Rank of the Accused	A-3
Name of Accused	Pramod Ram
Date of Custody	25.10.2014
Date of Release on Bail	19.03.2015
Offences Charged with	U/s-395, 397 of IPC
Whether Acquitted or convicted	Acquitted
Sentence Imposed	Nil

Rank of the Accused	A-4
Name of Accused	Nawab Thakur
Date of Custody	17.12.2014
Date of Release on Bail	05.05.2015
Offences Charged with	U/s-395, 397 of IPC
Whether Acquitted or convicted	Acquitted
Sentence Imposed	Nil

“FORM-C”

LIST OF PROSECUTION/DEFENSE/COURT WITNESS

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
1.	Mukesh Kumar Singh @ Mukesh Singh	Hostile
2.	Md. Mojahid Hussain	Other witness
3.	Md. Khurshid Alam	Other witness
4.	Md. Irfan Alam	Other witness
5.	Md. Faruk Ahmad	Informant
6.	Abhimanyu Yadav	Investigating Officer

B. Defence Witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

C. Court Witness, if any: -

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

LIST OF PROSECUTION/DEFENCE/COURTS EXHIBITS: -

A. PROSECUTION;-

SR. NO.	EXHIBIT NUMBER	DESCRIPTION
1.	Exhibit-1/PW-2	Written petition
2.	Exhibit-2/PW-6	Seizure list dtd-26.10.2014
3.	Exhibit-4/PW-6	CS No.-04/2015, dated-27.01.2015

B. DEFENCE :

SR. NO.	EXHIBIT NUMBER	DESCRIPTION
Nil	Nil	Nil

C. COURT EXHIBITS :

Sr. No.	EXHIBIT NUMBER	DESCRIPTION
Nil	Nil	Nil

D. MATERIAL OBJECTS :

Sr. No.	MATERIAL OBJECT NUMBER	DESCRIPTION
Nil	Nil	Nil

Present :-

Udaywant Kumar
Principal Sessions Judge,
Sheohar

JUDGMENT

- 1 The accused above named are facing trial in connection with Shyampur Bhataha PS Case No.-72/2014, dated-16.10.2014, U/section-394 of IPC and 27 of Arms Act.
- 2 The prosecution case in brief is that on 15.10.2014 at 07:30 PM in the evening, the informant was intercepted in course of his return to his house by 4 bike borne persons on NH-104, adjacent to bridge situating in the village-Paharpur. It has come in the FIR that the four criminals had arrived there on two bikes and two criminals were sitting on each bike. It is alleged that the bike approached from his side was a Splendor-Pro motorcycle and the criminal so has come thereon upon alighting from the bike snatched the keys of the motorcycle of informant. It has further come in the FIR that the second person has pulled him down from his bike, whereas the third person started assaulting him with fist, slaps and legs and the other accused persons also gave him company in assaulting the informant. It is alleged in the FIR that in course of occurrence one of the criminal has pointed pistol on his temple and thereafter the other accused persons took out all the belongings so kept by him in his pocket. It has even further come in the FIR that the criminals have taken away Rs.11,000/-, ATM Card, other documents and 2 mobile phones from him. It is stated that one of the mobile possessed by him was of Samsung Company bearing mobile no.-9939808897 and 8804856793, whereas the second mobile was of Nokia Company which was bearing the BSNL SIM having number-9473360991. The informant further stated that the accused persons departed from the place of occurrence after taking his Passion-Pro motorcycle bearing registration number-BR30D5249 and while moving away they opened fire from which the informant had a narrow escape. It is

stated that the owner book of his motorcycle, the pass book of account maintained by him in State Bank of India bearing A/c no.-11779007623 along with cheque book and the pass book of Central Bank of his account so kept in the Dickey of his bike was taken away by the criminals. Accordingly, with the said allegation FIR has been instituted.

- 3 On the perusal of record it appears that the police submitted charge-sheet bearing CS No.-04/2015, dated-27.01.2015, U/sections-395 and 397 of IPC against accused persons facing trial herein and subsequent thereto on the perusal of material produced by prosecution the learned court below has taken cognizance of offence vide order dated-06.02.2016. Subsequently upon finding the case triable exclusively by the court of Sessions, the record of the case was got committed vide order dated-12.07.2016. The charge U/sections-395 and 397 of IPC has been framed against 6 accused persons. However, subsequently in course of pendency of trial the accused Umesh Sahni got demised and thereupon his name was expunged vide order dated-29.10.2024, whereas the accused Rajiv Kumar also died and his name was expunged from the charge vide order dated-29.10.2024. It is therefore, in the said circumstance the instant Sessions Trial is continuing only against remaining 4 accused persons named above.
- 4 The prosecution in the instant case have got examined altogether 6 witnesses wherein the PW-1 is Mukesh Kumar Singh @ Mukesh Singh, the PW-2 is Md. Mojahid Hussain, the PW-3 is Khurshid Alam, the PW-4 is Md. Irfan Alam, the PW-5 is Md. Faruk Ahmad and the PW-6 is Investigating Officer Abhimanyu Yadav.
- 5 In the documentary evidence the Exhibit-1 relied over from the side of prosecution is written petition forming basis of FIR. The Exhibit-3 is seizure report dated-26.10.2014 and the Exhibit-4 is charge-sheet bearing CS No.-4/15, dated 27.01.2015.
- 6 The PW-1; Mukesh Kumar Singh @ Mukesh Singh, has been declared hostile by prosecution. He deposed that his statement was not recorded by police. In para-2 of his cross-examination by prosecution with the leave of court the witness denied making statement to police that he was informed by Faruq Ahmad that in course of his returning home, about 150 yard west from the Badarpur bridge, he was intercepted by 4 motorcycle borne persons so arrived there on two bikes and his motorcycle, Rs.11,000/-, his documents, pass books, ATM and other papers were taken away by them. In para-3 of the cross-examination the witness stated that Shyampur Police Station is situating about 10 kilometers away from his home. In para-4 of the cross-examination he stated that no occurrence had taken place in presence.

- 7 The PW-2; Md. Mojahid Hussain, deposed that the informant Faruq Ahmad and him was posted as teacher in the same block. He further deposed that about 4½ years ago the informant Faruq Ahmad informed him that in the evening at 07:30 PM he was returning home from Sheohar when adjacent to Paharpur bridge he was intercepted by 4 persons arrived there on 2 bikes. The witness further deposed that he told him that they forcibly took away his Passion Pro motorcycle bearing registration no.-BR30D5249, Rs.11,000/-, his ATM and other valuable documents. The witness further deposed that he was informed by informant that while moving away the criminals have fired at him but he escaped narrowly therefrom. The witness stated that on the narration of incident he wrote the application for informant. The informant submitted said petition written by him to SHO, Shyampur Bhataha, whereon he along with informant put their respective signature. On the proof of witness the written petition forming basis of FIR is marked Exhibit-1 from the side of prosecution. In para-3 of the cross-examination the witness stated that he does not identify any accused person.
- 8 The PW-3; Khurshid Alam, deposed in his examination-in-chief that the informant Faruq Ahmad is his co-villager. He further deposed that he is a teacher. It has further come in his testimony that the occurrence had taken place about 4½ years ago at 07:30 PM in the evening when the informant was returning home on his motorcycle from Sheohar when adjacent to Paharpur bridge four persons arrived there on two motorcycle and they intercepted him forcing him to stop his bike. It is even further deposed that the criminals had taken away his motorcycle, Rs.11,000/- and other valuable document. The witness continued to depose that the said occurrence was narrated to him by the informant. On his cross-examination the witness stated that he does not identify any of the accused person and that he has not seen the occurrence himself.
- 9 The PW-4; Md. Irfan Alam, deposed that he is the cousin of informant Faruq Ahmad. He further deposed that the occurrence had taken place about 4½ years ago at 07:30 PM in the evening when the informant was returning from Sheohar on his bike. It has further come in his testimony that adjacent to Paharpur bridge the informant was intercepted by four motorcycle borne persons so arrived there on two motorcycles. It is further deposed that they forcibly took away motorcycle, Rs.11,000/- and valuable document of informant. It is further deposed that upon getting information he went to meet informant and thereupon he narrated him the occurrence. In para-2 of the cross-examination the witness stated that he has not seen the occurrence with his own eyes.
- 10 The PW-5; Md. Faruq Ahmad, is the informant of the case. In para-1 of his examination-in-chief he deposed that the occurrence had taken place on 15.10.2014 at 07:30 PM in the

evening. He further deposed that at the said time he was returning home from Sheohar on his motorcycle and when he reached adjacent west to Paharpur Bridge he was intercepted by four persons so arrived there on two motorcycles. The witness further deposed that the criminals so arrived there had snatched the keys of motorcycle, whereas the second person pulled him down by holding his collar and the third persons started assaulting him with fist and legs. It is further deposed that all the accused persons have assaulted him with Danda. The witness further testified that one of the criminal had pointed pistol at his temple and thereafter he took away Rs.11,000/-, ATM Card, two mobile phones, his Passion Pro motorcycle bearing registration no.-BR30D5249 and other valuable document and thereafter fled away towards Sheohar. It is further deposed that while moving away they opened fire with the weapon held by them but he escaped therewith narrowly. The witness further deposed in the same para that there was with him his pass book of State Bank of India and Central Bank, cheque book of respective banks and pass book and cheque book of other members of his family, the voters list of block relating to the PACKS election and other documents in the dickey of his motorcycle which was also taken away by the criminals. The witness stated that subsequent to occurrence he got a petition written and submitted to the SHO of Shyampur Bhatha PS which has already been marked Exhibit-1 from the side of prosecution. In para-2 of his examination-in-chief he deposed that he does not identify any accused person. In para-3 the witness stated that the occurrence had taken place in the darkness of night and therefore he does not identify any of the accused persons. In para-6 of the cross-examination the witness stated that the criminals so committed the occurrence of loot had got their face covered with towel and therefore he could not identify any of them.

- 11 The PW-6 examined from the side of prosecution is the investigating officer of the case. In his examination-in-chief he deposed that on 16.10.2014 he was posted as Sub-Inspector in Shyampur Bhatha PS when the charge of investigation of the instant case was handed over to him by SHO, Shyampur Bhatha. The witness deposed that the formal FIR of the case is in the writing of Anil Prasad Singh. It has further come in his testimony that he recorded the restatement of informant and thereafter inspected the place of occurrence. The witness stated the boundary of the place of occurrence as in North-crematorium situating in village Paharpur, South-earthen road leading to village-Paharpur, East-pitch road of NH-104 and West-pitch road of NH-104 leading towards Naya Gaon. The witness further recorded the statement of witnesses Mukesh Kumar Singh, Md. Khurshid and Md. Irfan. It has further come in his testimony that he recorded the confessional statement of accused Pramod Ram and thereafter prepared the seizure report of mobile. The witness identified his signature on the seizure report and on his proof the seizure report is marked

Exhibit-3 from the side of prosecution. The witness further apprehended accused Rajiv Rai. It is deposed that subsequent to receipt of supervision note by Superintendent of Police he submitted charge-sheet bearing CS No.-04/2015, dated-27.01.2015, U/section-395 and 397 of IPC against 6 accused persons named in the charge-sheet. On the proof of witness the charge-sheet submitted by him is marked Exhibit-4 from the side of prosecution. In para-2 of the cross-examination the witness stated that he does not remember that any test identification parade was got conducted by him or not. The witness further denied remembering that whether test identification parade of any of the articles seized in the matter was conducted or not and further stated that no entry as regard conduct of test identification parade has been made in the case diary. In para-3 of the cross-examination the witness stated that he has not got recorded the statement of any of the boundary man of the place of occurrence and no incriminating article was got recovered from the place of occurrence. In para-4 of the cross-examination the witness stated that the accused Pramod Kumar was apprehended by him from the village Paharpur. Lastly he denied that the investigation conducted by him is faulty.

- 12 The learned public prosecutor while opening the argument submitted that the instant case was got instituted on the robbery with informant in course of his return from Sheohar. It is submitted that the in the occurrence the informant lost his motorcycle, Rs. 11,000/- and other valuable document and therefore on his complaint the FIR was got instituted against unknown criminals. The learned prosecutor submitted that the name of accused persons surfaced in course of investigation and subsequent thereto the police submitted charge sheet against their name vide CS No.- 04/2015, dated-27.01.2015. It is submitted that the two accused persons out of total six accused initially facing trial has passed away in course of pendency of trial and as such the remaining four accused persons are awaiting adjudication upon trial. The learned prosecutor continued to submit that the prosecution has examined altogether 6 witnesses including the informant and the investigating officer but since none had seen the occurrence except the informant therefore none of the witness have identified the accused. It is submitted that even the informant has though supported the occurrence but he did not identify the accused before court stating that the face of criminals were covered with towel at the time of occurrence. It is submitted that the material on the record does not reveal conduct of test identification parade of accused or any article recovered by police and the said fact has also been testified by investigating officer examined as PW-6. It is therefore submitted that appropriate judgment/order may be passed in the matter.
- 13 Per contra, the learned counsel for defense submitted that the prosecution case as alleged is false, frivolous, baseless and concocted. It is submitted that the accused persons are

implicated in the instant case on account of intervention of interlopers of vested element. The learned counsel submitted that there is no material on the record linking accused persons with the offence alleged in the matter and none of the witness in course of examination has identified them. It is further submitted that the prosecution has utterly failed in establishing the factum of occurrence as no cogent evidence could be brought by it on the record. The learned counsel contended that the prosecution case naturally lacks the ingredients of the offence so charged against accused. It is contended that out the six witnesses so examined from the side of prosecution none of the witness has supported the complicity of accused persons. It is submitted that the false nature of prosecution case is apparent from the fact that despite the FIR having got instituted against unknown person no test identification parade has been got conducted by prosecution on accused persons and they have unreasonably been made to suffer trial for these long years. It is therefore at last submitted that the prosecution utterly failed in establishing the charge so brought against the accused and hence the accused may be acquitted of the charge so brought against them.

CONCLUSION

- 14 The instant sessions trial has arisen in connection with the FIR got instituted by informant Md. Faruq Ahmad in connection with dacoity committed with him in course of his return from Sheohar to his home. The perusal of record reveal that the FIR has been got instituted on the written petition submitted by informant Md. Faruk Ahmad. The writer of said written petition is Md. Mojahid Hussain. It is stated in the FIR that the informant lost his motorcycle, Rs. 11,000/-, several passbooks, voter list and other valuable documents. It is alleged in the FIR that the criminals four in number intercepted the informant on two bikes and forced him to stop his bike and thereafter on the point of pistol they looted away his belongings. On the perusal of FIR it transpires that the same was got instituted against four unknown persons however subsequently in course of investigation the complicity of six accused persons transpired in the matter and therefore the charge sheet bearing CS No.- 04/2015, dated-27.01.2015, has been submitted. The said charge sheet is proposing altogether six persons as witness from the side of prosecution and all of them have been got examined before court. In course of hearing it has been contended by learned prosecutor that the complicity of accused persons facing trial herein first got surfaced upon recovery of a mobile vide seizure list dated-26.10.2014. The said seizure report has been marked Exhibit-3 from the side of prosecution. On the perusal of Exhibit-3 it surfaces that in column-1 of said seizure report the date of recovery of said mobile is stated to be 25.10.2014 at 16:30 PM. It is therefore not apparent that why the article so got recovered on 25.10.2014 was formally seized by preparing seizure report on 26.10.2014.

It is furthermore relevant to point out that the investigating officer so examined as PW-6 has deposed that no test identification parade either of accused or of the article recovered in course of investigation was got conducted by police. On the perusal of column-4 of Exhibit-4 it transpires that the police recovered a Samsung mobile of white color with two SIMs but there is no evidence on the record regarding identity of person in whose name those SIMs were standing. Further the seizure report does not reveal from whose custody said mobile was got recovered rather the column-2 suggest that the same was recovered at the place about 100 yards south to the cement shop of Bhola Sah. Since the FIR was got instituted against unknown persons and the investigating officer could not illuminate the source of accusation of accused persons facing trial herein therefore only for the purpose of reference the case diary has been consulted by this court and thereupon it transpired that the said mobile relating to Exhibit-4 was got recovered from the possession of Rajiv Roy on whose death his name has already been expunged from the charge. It further surfaces that the name of other accused persons have come on the record only on the basis of confessional statement recorded by police which on account of bar of section-25 of evidence Act cannot be taken into evidence. It would further be relevant for consideration that out of six accused persons charged with commission of offense in the charge sheet two of the accused namely Rajiv Kumar and Umesh Sahni have died in course of pendency of trial and as such their names have been expunged from the charge vide respective order dated-29.10.2024.

- 15 In the aforesaid facts this court finds it fit to begin the consideration of evidence produced by prosecution with the testimony of investigation officer of Abhimanyu Yadav so examined as PW-6. In his examination-in-chief he simply deposed that he prepared the seizure report without stating that from whose possession the article so seized was got recovered. He however stated in next para that he got arrested Rajiv Roy and subsequent thereto upon receiving supervision note he got submitted the charge sheet against accused persons. In para-2 of his cross-examination he stated that he did not get the test identification parade conducted either of accused or the article received in course of investigation. Therefore his testimony completely fails to throw any light on the complicity of accused persons in the offense alleged. The informant Md. Faruq Ahmad has come to be examined as PW-5 from the side of prosecution. In his examination-in-chief he supported the commission of occurrence with him but at the bottom of examination-in-chief he deposed that he could not see any of the accused persons. The said fact has further been confirmed by him in para-3 and 4 of his cross-examination where he stated that it was a dark night and he does not identify any of the accused persons. In para-6 of his cross-examination he again stated that the criminals were having

their face covered with a towel. The PW-2; Md. Mujahid Hussain, is the writer of the written petition forming basis of FIR. In his examination-in-chief he deposed that he wrote the written petition on the instruction of informant and he did not see any part of the occurrence with his own eyes. In para-3 of his cross-examination he further stated that he does not identify any of the accused persons. Similarly the PW-3; Khurshid Alam, is only the acquaintance of informant who was narrated the occurrence by informant and in his examination-in-chief he deposed that he has not seen the occurrence himself. In para-2 of his cross-examination he stated that he does not identify any of the accused and that the occurrence was not committed before him. The PW-4; Irfan Alam, is the cousin of informant and in his admission he is also only a hearsay witness who has been told about the occurrence by the informant and he has not seen any occurrence with his own eyes. The PW-1; Mukesh Kumar Singh @ Mukesh Singh, has been declared hostile by prosecution. In para-1 of his examination-in-chief he deposed that he does not know anything about the occurrence and no occurrence was got committed before him.

- 16 In view of the discussion so made above it transpires that though the witnesses supported the factum of occurrence wherein the motorcycle and other valuable was got looted from the informant but there is not even iota of evidence pertaining to complicity of accused persons therein. No test identification parade is apparently got conducted by investigating officer on accused and neither have they been got identified by informant before court. There is no evidence that the test identification parade was got conducted of the article seized by police vide Exhibit-3 and the prosecution further failed in establishing link of accused persons with the articles got recovered for linking the accused persons with the offense charged. It is therefore in that view of the matter this court fails to find any substance in the charge framed against accused and the prosecution utterly failed in establishing the charge against them.
- 17 In view of the aforesaid facts, circumstances and discussions and after hearing the argument this court comes on to the considered conclusion that the prosecution failed in establishing the guilt of accused namely Prem Sahni, Gajendra Sah @ Gaji Sah, Pramod Ram and Nawab Thakur, U/section-395, 397 of IPC. The accused above named are therefore **Acquitted** of the charge framed against him.
- 18 The accused namely Prem Sahni, Gajendra Sah @ Gaji Sah, Pramod Ram and Nawab Thakur are on bail and therefore the accused themselves and their bailors are released from the obligation of the bail bonds so executed by them. The accused Nawab Thakur has been produced before this court on production warrant. In view of acquittal of accused the office is directed to recall the production warrant at once.

- 19 The accused Prem Sahni, Gajendra Sah @ Gaji Sah, Pramod Ram and Nawab Thakur are further directed to furnish personal bond of the amount of Rs.10,000/- U/section-481 of BNSS for securing his appearance before appellate Court in case the appeal, if any, is preferred against the judgment.
- 20 In view of final adjudication of instant case the pending warrants and other processes so issued in course of trial of the instant case stands recalled and cancelled and the office is directed to issue letter in that regard.
- 21 The office clerk is directed to send the copy of Judgment to Learned District Magistrate, Sheohar.

Typed, Corrected and Pronounced by :-

Sd/-
(Udaywant Kumar)
Principal Sessions Judge,
Sheohar,
Dated-24.02.2025