

IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE POOPRI
DISTRICT – SITAMARHI, DATED-30.06.2026
PRESENT :- VIVEK KUMAR , JUDICIAL MAGISTRATE 1ST CLASS
State vrs. Chandan Kumar
Date of the Judgement :-**30th June 2026**
Nanpur P.S Case No.- 339/2021
Reg. No.-888/2021, G.R. No.-1630/2021

PRESENT :- VIVEK KUMAR , JUDICIAL MAGISTRATE 1ST CLASS

Date of the Judgement :-30th June 2026

Reg. No.-888/2021, G.R. No.-1630/2021

Prosecution	(Through, Informant Rajeev Kumar, S/o- Parmanand Jha, R/o – Kharka P.S.– Nanpur, District– Sitamarhi.)
Represented by	Ld. Advocate – Saurabh Solanki (PO)
Accused	1. Chandan Kumar s/o Ram Prabodh Sah Resident of Village–Budhnagra, P.S.–Nanpur, District– Sitamarhi.
Represented by	Ld. Advocate – Shri Akhilesh Kumar Jha Smt. Kanchan Kumari

Date of Offence	27/10/2021
Date of FIR	02/11/2021
Date of Cognizance	07/08/2023
Date of Framing of Charge	13/06/2024
Date of commencement of evidence	10/03/2025
Date on which Judgment is reserved	24/06/2026
Date of Judgment	30/06/2026
Date of sentencing order, if any	Nil

Rank of the accused	Name of 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.	Chandan Kumar	02.08.2022	Not released	Section 392/34 of IPC	Acquitted	NIL	NIL

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FORM “C”

LIST OF PROSECUTION /DEFENCE/COURT WITNESSES

A. Prosecution :-

RANK	NAME	NATURE OF EVIDENCE
PW-1	Satya Narayana Rai (Victim)	Eye Witness
PW-2	Rajeev Kumar (Informant)	Hearsay Witness
PW-3	Tripurari Kumar	Investigating Officer (2 nd)
PW-4	Pramila Devi (Informant)	Investigating Officer (1 st)

B. Defense Witnesses, if any:-

RANK	NAME	NATURE OF EVIDENCE
	Nil	

C. Court Witnesses, if any:-

RANK	NAME	NATURE OF EVIDENCE
	Nil	

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :-

Sr. No.	Exhibit Number	Description
1.	Exhibit -P1/PW2	Signature of the informant on the ferdbeyan
2.	Exhibit – P2/PW3	C.S. No. 281/23 dt. 28.06.23
3.	Exhibit – P3/PW4	Signature of former thana -in-charge on ferdbeyan

B. Defence :-

Sr.No.	Exhibit Number	Description
		NIL

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C. Court Exhibits :-

Sr.No.	Exhibit Number	Description
		NIL

D. Material Objects :-

Sr.No.	Material Object Number	Description
	Nil	

JUDGEMENT

In Ritesh Tewari v. State of Uttar Pradesh, (2010) 10 SCC 677, the Hon'ble Supreme Court held that every trial is a voyage of discovery in which truth is the quest. In Maria Margarida Sequeria Fernandes v. Erasmo Jack de Sequeria, (2012) 5 SCC 370, the Hon'ble Supreme Court again highlighted the significance of truth and observed that the truth should be the guiding star in the entire legal process and it is the duty of the Judge to discover truth to do complete justice. It was ruled that the truth should be the guiding star in the entire judicial process. Truth alone has to be the foundation of justice. The entire judicial system has been created only to discern and find out the real truth. Right from inception of the judicial system, it has been accepted that discovery, vindication and establishment of truth are the main purposes underlying the existence of the courts of justice. Truth is the foundation of justice.

Case of the Prosecution

1. The accused person was charged for committing offence punishable u/s 392/34 of the Indian Penal Code (hereinafter referred to as I.P.C.) for committing robbery.

2. The Prosecution story in brief as per the FIR filed by the informant namely. Rajeev Kumar is that on the date of occurrence i.e., 27.10.2021 at about 01:00 PM three miscreants looted out cash of Rs. 24,000/- (Twenty Four Thousand) and mobile with SIM of driver of vehicle of Nirmal Indane Gramin Vitarak (Gas Agency) bearing registration no. BR 06 GF 2232. Hence, arose the need for the informant to file this case.

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Procedural Compliance

3. Based on written information (fardbyan) of informant, a Nanpur P.S Case No. 339/2021 was registered and a formal F.I.R. was drawn thereof. The investigation of the case was entrusted to S.I. Pramod Prasad, who later on transferred investigation to Tripurari Kumar who after investigation submitted charge sheet on dt. 28.06.2023 against the abovementioned accused person u/s 392/34 of IPC.

4. On the basis of the F.I.R, charge sheet and case diary COGNIZANCE order was passed by Ld. Court u/s 392 read with 34 of IPC against one accused person namely, 1) Chandan Kumar.

5. On dt. 13.04.2024 charge was framed against the accused person namely: 1) Chandan Kumar u/s 392 read with 34 of IPC. The charge was framed and read and explained to the accused person in Hindi, to which he pleaded not guilty and claimed to be tried.

6. The prosecution evidence was finally closed on dt. 13.05.2026 and statement of accused persons u/s. 313 Cr.P.C. was recorded on dt. 25.05.2026 under which he has denied the occurrence of entire allegations and pleaded his innocence.

The defense case in brief is that denial of the entire occurrence and innocence of the accused persons.

POINT FOR DETERMINATION

3. Whether the Prosecution has been able to bring home the guilt of the accused persons beyond the shadow of all reasonable doubts?

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FINDINGS

List

A. Evidence of the Prosecution: -

(i) Oral Evidence.

RANK	NAME	NATURE OF EVIDENCE
PW-1	Satya Narayana Rai (Victim)	Eye Witness
PW-2	Rajeev Kumar (Informant)	HersayWitness
PW-3	Pramod Prasad	Investigating Officer (1 st)
PW-4	Tripurari Kumar	Investigating Officer (2 nd)

(ii) Documentary Evidence. -

Sr.No.	Exhibit Number	Description
1	Exhibit – P1/PW2	Signature of the informant on the ferdbeyan
2.	Exhibit – P2/PW3	C.S. No. 281/23 dt. 28.06.23
3.	Exhibit – P3/PW4	Signature of former thana -in-charge on ferdbeyan

B. Evidence of the Defense/Accused persons -

(i) Oral Evidence – None.

(ii) Documentary Evidence–None

APPRECIATION OF THE EVIDENCE

9. Prosecution has examined four witnesses namely Satya Narayana Rai (Victim) as **PW-1**, Rajeev Kumar (Informant) as **PW-2**, Pramod Prasad (1st Investigating Officer) as **PW-3**, and Tripurari Kumar (2nd Investigating Officer) as **PW-4**. Prosecution has also exhibited the signature of the informant over the fardbyan which is marked as **Exhibit-P1/PW2**, the C.S. No. 281/23 dt. 28.06.2023 which is marked as **Exhibit – P2/PW3**, and Signature of former thana - in-charge on ferdbeyan which is marked as **Exhibit – P3/PW4**.

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10. The defence has not adduced any oral or documentary evidence in support of their contentions.

11. **PW-1 namely, Saynarayana Rao**, the victim has stated in his examination-in-chief vide para 1 that the incident took place around 01:00 AM in the night on dt. 27.10.2021. In para 02 he stated that he went out for delivery of Indane gas cylinder on a three-wheeler auto. After delivery, he was returning to Kharka where in the route around village Basant he was stopped by the unknown persons coming from opposite direction. In para 03 he deposed that one of them came to him and put a gun on my head. Other two persons came from other side and put a gun my head. Further they took my mobile and around Rs.24,000/- from my pocket. In para 06 he deposed that he narrated the appearance to police but todatt the person standing in court does not resemble him.

In his cross-examination, PW1 has deposed vide para 10 that he informed about the incident to the police. In para 11 he stated that till date, no test identification parade was conducted by police. In para 13 he admitted that earlier he never saw the person standing in the court today. In para 14 he stated that it is not him rather proprietor of Gas Agency who informed to the police.

On a close scrutiny of the deposition of PW1 it appears that he has completely supported the prosecution story as mentioned in the Fardbeyan. However, he is not able to identify the person present in the court as an accused of the case.

12. **PW2 namely, Rajeev Kumar**, Informant has in para 03 has stated that he was informed by his driver namely, Satya Narayana Rai about the incident. In para 04 he deposed that he does not know about the accused persons. In para 05 he stated that he informed to the police about the incident and lodged a complaint with typed petition on the letter pad of his gas agency. This typed petition was signed by him and marked as Exhibit P1/PW2.

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In his cross- examination he has deposed vide para 6 that he did not see the incident himself rather it was narrated to him by the victim of the case. In para 08 he admitted that no test identification parade was done by police. In para 10 he admitted that earlier he neither saw the accused namely, Chandan Kumar nor heard about him.

On close scrutiny of the examination of PW2, it is clear that he is not the eye witness of the incident, rather whole story was later on narrated to him by victim. He does not know anything of incident on his own.

13. **PW3 namely Tripurari Kumar**, 2nd Investigating Officer has stated in para 01 that he was handed over investigation of the case on dt. 05.07.2022 by previous investigating officer namely, Pramod Prasad. In para 04 he stated that he examined about the investigation done so far and took out C.D.R. and P.L. from technical cell, Sitamarhi Police. In para 06 he stated that the accused namely, Chandan Kumar was already in jail in Bochahan P.S. Case NO. 170/2022 from dt. 07.04.2022. Then on dt. 28.06.2023 he submitted Charge Sheet No. 281/2023 u/s 392/34 IPC. In para 08 he stated that the charge sheet no. 281/2023 is in his handwriting which he identifies and marked as Exhibit P2/PW3.

In his cross-examination he admitted in para 09 that he is not a technical expert. In para 10 he admitted that he did not record statement of any witness of this case. In para 11 he admitted that he did not mention about the boundaries of the house of accused Chandan Kumar.

On close scrutiny of the examination of PW3, it is clear that he did not investigate much of the incident.

14. **PW4 namely, Pramod Prasad**, 1st Investigating Officer has deposed in para 01 that he was given the investigation of this case on dt. 02.11.2021. In para 02 he deposed that on the same day around 11:15 AM he proceeded to place of occurrence and after reaching at the spot, inspected the spot. In para 03 he mentioned about the boundaries of the spot. In para 04 he

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deposed that all the witnesses namely, Satya Narayana Rai, Mithila Rai and Rajeev Yadav confirmed of the offence committed. In para 06 he deposed that he he sent report to technical cell for obtaining C.D.R. of the mobile but in between on dt. 14.06.2022 he got transferred. In para 07 he deposed that there is pagination on the typed petition and signature of the then S.H.O. namely, Ram Vinay Paswan which he identifies and marked Exhibit P3/PW4.

During his cross examination, in para 09 he admitted that during he being the I.O. of this case no evidence was collected by him. In para 10 he admitted that he never disclosed name of any unknown accused during this investigation.

On the close scrutiny of his entire testimony, it becomes evident that this witness was handed over investigation of this case but before he could find something credible evidence, he was transferred.

FINDINGS

15. Learned Prosecution officer has submitted that the prosecution has produced altogether four witnesses before this Court out of which two are private persons and rest two are investigating officers of this case on different point of times. All the witnesses have supported all the allegations against the unknown accused persons in examination-in-chief and remain solid in their respective cross-examination as well. Further, also submitted that the examined witnesses are eye witnesses/victim, informant and investigating officers and had supported and corroborated the prosecution case in toto. Further argues that it is a fit case for conviction of accused persons u/s. 392 r/w 34 of IPC on the basis of the oral testimonies of the witnesses. The Learned Counsel for the informant also submitted that there are minor contradictions in the depositions but those depositions are irrelevant as far as culpability of the accused person is concerned. Thus, prosecution has proved its case beyond all reasonable doubts and therefore

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above-mentioned accused persons must be held guilty for the said offences and hence are liable for conviction.

16. Learned Counsel for Defence had submitted that bogus case has been filed to falsely implicate the alleged accused persons in this concocted case as no such occurrence ever took place. Further even if the offence committed is taken to be true, none of the witnesses have seen the accused person committing the offence. It is just that the accused person has criminal antecedents, so the police thought it easy to implicate his name even in this case. Further there is discrepancies as to the version of witnesses before their statements before police and before Id. Court. Further, the other witnesses of the incident who gathered at the place of occurrence have also been not examined. Therefore, Informant has totally failed to prove its case beyond all reasonable doubts and all the alleged accused persons must be held not guilty and should be set at liberty.

17. From the perusal and minute scrutiny of the entire record including testimonies of the prosecution's witnesses and the other evidences available on record, this Court finds that prosecution has examined altogether four witnesses to support its case. This Court, for proper appreciation of evidence, will take up the alleged section.

18. The allegations u/s 392 of IPC will be appreciated and for that this Court wants to draw an attention towards the requirement of law. This Court wants to discuss here that for the purpose of deciding S.392 of IPC, the requirements under IPC as per provision of law are as follows:

Section 392 of the IPC- The essential ingredients of the offence under sec. 392 are as follows: 1. *Accused committed theft;* 2. *The Accused voluntarily caused or attempted to cause death, bodily harm or wrongful restraint and feared instant death, bodily harm or wrongful restraint;* and 3. *The accused committed either act for the purpose of committing theft or while committing theft, carrying away or the attempt to carry away property acquired by theft.*

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In the present case, the victim in his examination has levelled the accusations against all the unknown accused persons specifically. He has not explicitly stated that by which weapon who assaulted him. Later on, he denied from identifying the accused present before the court as an accused. Even no test identification parade was ever conducted by the police for proper identification of unknown accused. Secondly, the informant totally denied from identifying the accused person. Even the both investigating officers could not produce any solid reason for branding the accused as an accused in the present case. Furthermore, it is also clear that the money looted was not proved. Person carrying the revolver was not identified. In such a case, in the absence of any direct evidence that the accused was involved in commission of the offence, benefit of doubt may be extended to accused.

The law as to the culpability

19. It is but a settled law that prosecution has to prove a case beyond reasonable doubt. It is the duty of the prosecution to produce all the material evidence before the court of law. 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.

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. Criminality is not to be presumed, subject of course to some statutory exceptions. In a criminal trial, it is for the prosecution to establish its case beyond all reasonable doubts. It is for the prosecution to travel the entire distance from may have to must have.

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In *Nasir Sikander Shaikh v. State of Maharashtra, AIR 2005 SC 2533* it has been held by Hon'ble Apex Court that *burden is heavy on the prosecution to prove every ingredient of the offence. Prosecution is under legal obligation to prove each and every ingredient of the offence alleged against the accused beyond any reasonable doubt.*

But in the present case the prosecution has failed to prove the charges levelled against the accused persons beyond the shadow of all reasonable doubts.

Also, it is a settled rule that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the court should refrain from recording the finding of guilt of the accused. It is also an accepted rule that in case the court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefits of doubt.

20. On careful scrutiny of the above submissions, in the light of facts of this case, this court finds that only on the basis of testimony of all related/interested witness with many vital contradictions, this court does not find safe to place reliance for conviction. As the paramount consideration of the court should be to avoid miscarriage of justice.

Hence, in the light of the depositions of all the witnesses the Court does not find that the accused persons namely: 1) Chandan Kumar is guilty for the offence u/s 392/34 of IPC.

Hence, upon the appraisal of the above facts and circumstances and testimonies of the witness, along with the consideration of the Hon'ble Supreme Court observations, it transpires that the prosecution has failed to prove this charge beyond the shadow of all reasonable doubts.

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Conclusion

21. Thus, in the light of the above discussions, and considering each and every aspect of the present case in hand and also having regard to the material available on record and having regard to the submissions placed by the Id. Counsels, this Court is of the opinion that the prosecution has failed to prove the charges u/s 392/34 of IPC beyond the shadows of all reasonable doubts, Accordingly, by giving benefit of doubts to the accused person is held not guilty of the charges for the offence punishable u/s 392/34 of IPC. The accused persons namely 1) **Chandan Kumar** is hereby “**ACQUITTED**” of the said charge.

22. Office clerk is hereby directed to deposit the record to the record room after completion of all the due procedure within the stipulated time period.

The Judgment pronounced in an open court on **30th June, 2026.**



Vivek Kumar

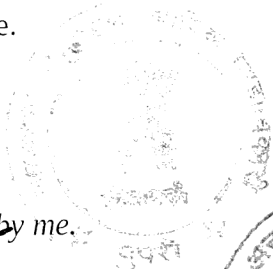
**Vivek Kumar
Sub Divisional Judicial Magistrate, Poopri
Civil Court, Sitamarhi**

It is therefore,

ORDERED

That the accused persons are found and held “**NOT GUILTY**” of the offence u/s 392/34 IPC and accordingly he is “**ACQUITTED**” of the same.

23. Office is directed to deposit the record in record room after completion of all the formalities within stipulated time.



Vivek Kumar

**Vivek Kumar
Sub Divisional Judicial Magistrate, Poopri
Civil Court, Sitamarhi**

Typed and corrected by me.

Vivek Kumar

**Vivek Kumar
Sub Divisional Judicial Magistrate, Poopri
Civil Court, Sitamarhi**

