

IN THE COURT OF SH. ANKUR JAIN-1: ADDITIONAL
SESSIONS JUDGE-04, CENTRAL, TIS HAZARI COURTS,
DELHI.



SC : 278/2023
FIR No. :116/2018
PS : Kotwali
U/s :392/397/34 IPC
CNR No. : DLCT01-006255-2023

Sahil @ Ajaj Salmani
S/o Imtiyaz Salmani
R/o A-5, Gali No.2,
Chauhan Banger Kalyan
Cinema, Delhi

ACCUSED

VERSUS

STATE

Date of committal	:	08/05/2023
Date on which order reserved	:	03/06/2026
Date on which order pronounced	:	03/06/2026
Final Order	:	ACQUITTAL

J U D G M E N T:-

1. On 25/04/2018 on receipt of DD No. 2PP ASI Shakti Singh alongwith Ct. Pooran Mal reached at the spot where complainant met who stated that he would give his statement on the next morning as the marriage was going on in his family. In morning, complainant alongwith his relatives came in the police post and gave his statement that in the night intervening of 24-25/04/2018 at about 12:30 AM at Iron Bridge towards Seelampur, Delhi when

complainant alongwith his relatives was going to his house after returning from Fatehpuri Market, suddenly three persons aged about 21-22 years came on orange & black colour bike and stopped their bike in front of complainant's bike. Two of them immediately came and pointed the pistol like weapon and put complainant and his relatives under the fear of death and asked them to hand over their all valuable items. In the meanwhile, their third associate came and snatched Rs. 50,000/- (25 currency notes of Rs.2000/- each), two ATM cards one of Central Bank of India and another of SBI and driving license from complainant and mobile phone make Samsung golden colour having two SIMs and bearing IMEI No. 358972088465636 and 358973088465634, hand bag containing wallet which further containing Rs.8,000/- to Rs.9,000/-, two ATM cards one of ICICI Bank and another of Kotak Mahindra Bank, credit card of Kotak Mahindra, Aadhaar card and PAN card, motorcycle No. DL 5SV 7021 make Glamour, DL, slip of traffic challan, key of Almirah of the office of his relative namely Harish. They after committing the robbery fled towards Seelampur on the bike on which no number plate was affixed. On the basis of his complainant FIR u/s 392/397/34 IPC was registered.

2. During the course of investigation, at the instance of the complainant site plan was prepared. The statements were recorded. The robbed mobile was put on surveillance. ASI Satender of PS Bhajanpura lodged a DD No. 30PP that

accused Sahil @ Ajaj s/o Intjar Salmani, Sharikh s/o Munna and Shahjahan @ Kamruddin s/o Chiraguddin were arrested in case FIR No. 217/2018 u/s 392/397/411/34 IPC who disclosed their involvement in the commission of the present case. They were arrested. Accused Sahil @ Ajaj refused his TIP. Accused Sharikh and Shahjahan @ Kamruddin were conducted on 15/05/2018 where complainant failed to identify them and again on 26/05/2018 their TIP were against fixed where were also not identified by eye witnesses Harish Singh, Paan Singh and Jagat Singh and thereafter, they were discharged.

3. Accused was summoned and after complying with the provisions of Section 207 Cr.P.C., the case was committed as section 397 IPC was exclusively triable by the Sessions court.
4. Vide order dated 12/09/2023 charge u/s 392/34 IPC & 397 IPC against accused was framed to which he pleaded not guilty and claimed trial.
5. In order to prove its case prosecution examined as many as 10 witnesses.
6. PW-1 SI Devender Singh was the Duty officer at PS Kotwali on the date of incident i.e. 25/04/2018. At about 9:45 AM, he received rukka prepared by ASI Shakti Raj, on the basis of the same he registered the FIR Ex. PW-1/A and also made endorsement on the rukka which is Ex.

PW-1/B. He also prepared a certificate u/s 65B Indian Evidence Act which is Ex. PW-1/C.

7. PW-2 Sh. Kapil Kumar, Id. ADJ-01 proved the TIP proceedings running into 02 pages Ex.PW-2/A.
8. PW-3 is HC Pooran Mal who deposed that in the intervening night of 24-25/04/2018, he was posted as constable at PP Red Fort and on that day, complainant Narender Singh came alongwith another person and gave statement to ASI Shakti Raj. ASI Shakti Raj had made endorsement on the statement of the complainant and the same was handed over to him for registration of the case and he went to PS and handed over the rukka to duty officer who got registered the FIR and after registration, duty officer handed over the computer copy of FIR and original rukka and he came to the police post and handed over to SI Sanjay Rana as the investigation was marked to him. Thereafter, he alongwith SI Sanjay Rana and complainant alongwith his friend reached to the spot and IO SI Sanjay Rana had made inquiries at the spot but no clue of accused and the case property and also searched for CCTV camera but no CCTV cameras were installed nearby the spot.
9. PW-4 is retired SI Shakti Raj who deposed that on 24/04/2018, he was on night duty posted at PP Red Fort and at about 1:10 PM, on receipt of received DD No.2PP Ex.PW-4/A which was marked to him regarding snatching of cash and mobile phone from two persons by three

persons with the help of knife, he reached at the spot i.e. at Iron bridge where he met caller namely Narender Singh Bisht alongwith PCR staff and the caller told him that he would come in the morning and give his statement. In the morning, caller came to him in PP Red Fort where he recorded the statement of complainant namely Narender Singh and he made endorsement on the same which Ex.PW-4/B and I handed over the same to Ct. Puran who went to PS and got registered the FIR. Thereafter, the further investigation was marked to SI Sanjay Rana.

10. PW-5 is HC Naval Kishore who alongwith Ct. Amit and Ct. Robin had joined the investigation of the present case with SI Sanjay Rana and came to Tis Hazari Court where Shahjahan @ Kamruddin and Mohd. Sharikh were produced in muffled face and accused Sahil @ Ajaj was produced in unmuffled face and IO had moved application for police custody of accused and above said two persons and one day police custody was granted and accused and above said two persons were taken to Aruna Asaf Ali hospital where they got medically examined. They led to the spot and at the instance of accused IO prepared the pointing out memo Ex.PW-5/A.
11. PW-6 Narender Singh is complainant of the present case who has deposed as per the story of the prosecution and he identified his signature on his complaint Ex.PW-6/A but failed to identify the accused and turned hostile. He was duly cross examined by the Ld. Addl. PP for State but nothing material came out in the cross examination.

12. PW-7 Jagat Singh Negi is brother in law of complainant, PW-8 Paan Singh Bisht and PW-9 Harish Singh are the friends of complainant Narender Singh and are the eye witnesses of the incident and have deposed as per the story of the prosecution but failed to identify the accused and turned hostile. They were duly cross examined by the Ld. Addl. PP for State but nothing material came out in the cross examination.
13. PW-10 SI Sanjay Rana is the IO of the case and prepared site plan of the spot at the instance of complainant PW-10/A and searched for the accused persons wanted in the present case and the robbed property and received information from police station Bhajanpura on 26/04/2018 regarding arrest of three persons who disclosed about the commission of the incident of the present case. On 27/04/2018, he moved application for production of the accused before the concerned court. Thereafter, further investigation was handed over to SI Parveen. SI Parveen formally arrested three persons in the present case namely Sahil @ Ajaj, Shahjahan @ Karimuddin and Mohd. Sharikh. On 14/05/2018, investigation was again marked to him. He took PC remand of all the above stated persons and during PC remand all the above stated three persons pointed the place of incident and prepared pointing out memo of the spot at their instance Ex.PW-5/A. On 15/05/2018, he moved an application for judicial TIP of the above stated two persons namely Shahjahan @ Karimuddin and Mohd. Sharik. Their judicial TIP was

failed as they were not identified by the complainant. Accused Sahil refused for his judicial TIP. On 28/05/2018, he got released Shahjahan @ Karimuddin and Mohd. Sharik from the present case.

14. Accused admitted the genuineness of his arrest memo and personal search memo dated 02/05/2018 prepared by SI Parveen Kumar Ex.AD-X and AD-X-1.
15. PE was closed on 04/04/2026. Statements of accused persons were recorded on 16/05/2026. Accused chose not to lead any evidence in defence and DE was closed accordingly.
16. Ld. counsel for the accused has argued that the case of the prosecution rests upon the testimony of PW-6, PW-7, PW-8 and PW-9 who corroborated the story of the prosecution but failed to identify the accused and turned hostile. It is submitted that the prosecution has not been able to prove its case beyond doubt and as such accused persons are liable to be acquitted.
17. Ld. Addl. PP for the state submits that allegations are serious in nature.
18. I have heard Ld. Counsels for the parties and perused the record.
19. The accused has been charged for committing offences punishable under section u/s 392/34 IPC & 397 IPC.
20. PW-6 Narender Singh is the complainant, PW-7 Jagat Singh Negi is brother in law of complainant, PW-8 Paan

Singh Bisht and PW-9 Harish Singh are the friends of complainant Narendra Singh and are the eye witnesses of the incident. They corroborated with the story of the prosecution but did not identify the accused. There is nothing on record to connect the accused with the commission of the present offence.

21. The other witnesses are either police officials who were not the eye witnesses of the incident and their testimony is only to the extent of investigation or medical evidence. The culpability of the accused cannot be proved by the testimony of these witnesses.
22. No other eye witness has been cited or examined to prove the guilt of the accused beyond reasonable doubts. The complicity of the accused could have been proved by the ocular evidence or circumstantial evidence. The ocular witness turned hostile and the circumstantial evidence is insufficient to infer the guilt of accused persons.
23. It is well settled law that to convict the accused on circumstantial evidence, there must be complete chain of events pointing towards the guilt of the accused and no other. It was held by the Apex court in ***Hanumant Govind Nargundkar and Anr. V. State of Madhya Pradesh***, [AIR 1952 SC 343], that:

"It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should be in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a

conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

24. In case of ***Sharad Birdhi Chand Sharda Vs. State of Maharashtra***, [AIR 1984 SC 1622], the Hon'ble Apex Court had laid down the test which are pre-requisites before conviction should be recorded, which are as under:

(1) The circumstances from which the conclusion of guilt is to be drawn should be fully established;

(2) The circumstances concerned "must or should" and not "may be" established;

(3) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;

(4) The circumstances should be of conclusive nature and tendency;

(5) They should exclude every possible hypothesis except the one to be proved; and

(6) There must be a chain of evidence so complete as not to leave any reasonable ground for conclusion consistent with the innocence of the accused and must so that in all human probability the act must have been done by the accused.

25. It is well settled law that the burden to prove the case beyond reasonable doubt lies on the shoulder of the prosecution. The accused has a right to maintain silence in the trial. Every accused person is to be presumed innocent until proven guilty. The burden of proof on the prosecution is to prove the case by leading cogent, convincing and

reliable evidence so as to prove the guilt of accused beyond reasonable doubt. The accused cannot be convicted on the basis of mere probabilities or presumptions. Suspicion howsoever grave cannot take place of proof.

26. The prosecution has failed to prove the case against the accused by leading convincing or cogent evidence and thus, it has failed to discharge the burden placed upon it and therefore, the accused is entitled to be exonerated.
27. Resultantly, the accused Sahil @ Ajaj Salmani is hereby acquitted of the charge framed against him vide order dated 12/09/2023 i.e. u/s 392/34 IPC & 397 IPC.
28. File be consigned to Record Room after completing necessary formalities.

**Announced in the
open court on 03.06.2026**

**(ANKUR JAIN-1)
ASJ-04/CENTRAL/DELHI**