

KABC030811092019



Presented on : 04-11-2019
Registered on : 04-11-2019
Decided on : 08-07-2026
Duration : 6 years, 8 months, 4 days

**IN THE COURT OF THE VIII ADDITIONAL CHIEF
JUDICIAL MAGISTRATE, BENGALURU CITY**

Present: **Smt. Deepa.V.**, B.A.L. LL B.
VIII ACJM, Bengaluru City.

Date: this the 08th Day of July, 2026

C. C. No.26266/2019
(Crime No.376/2014)

State by R.T. Nagara Police Station,
Bengaluru. ... **Complainant**

(Represented by Sri Vishwanath, Senior APP)

Versus

1. Sri Mansoor Pasha @ Mansoor @ Gidda,
Aged about 22 years,
S/o Sri Late Alla Bakash,
R/at 1st Cross, Chamundi
Nagara Main Road,
Near Tippu Flag,
Chamundinagar, R.T.Nagar,
Bengaluru City. ... **Accused**



- | | | |
|-----|----------------------------------|---------------------------|
| 1. | Date of commission of offence | 05-12-2014 |
| 2. | Date of FIR | 05-12-2014 |
| 3. | Date of Charge sheet | 31-03-2015 |
| 4. | Name of Complainant | Sri Chandramouli |
| 5. | Offences complained of | Under Section 392 of IPC |
| 6. | Date of framing charge | 28-10-2024 |
| 7. | Charge | Pleaded not guilty |
| 8. | Date of commencement of Evidence | 02-12-2025 |
| 9. | Date of Judgment is reserved | 08-07-2026 |
| 10. | Date of Judgment | 08-07-2026 |
| 11. | Final order | Accused No.1 is acquitted |
| 12. | Date of Sentence | - |



JUDGMENT

The Police Sub-Inspector of R.T. Nagara Police Station filed this split up charge sheet against accused No.1 and accused No. 2 namely Sri Harshad Amin for the offence punishable under Section 392 of Indian Penal Code.

2. Prosecution Case: On 05-12-2014 at around 9.25 pm, while CW1 namely Sri Chandramouli was walking on the 4th main road in Ganga Nagar, within the limits of R T Nagar police station, Bengaluru City, accused No.1 was riding a Hero Honda vehicle and accused No.2 was a pillion rider had snatched the Lenovo mobile phone worth of Rs.20,000/- from CW1 and ran away from the spot with their vehicle.

3. First Information Report: Upon the receipt of first information from CW1, CW11 Sri S.B.Kalappa, PSI-2 registered Crime No.376/2014 against the accused for the offence punishable under Section 392 of IPC, prepared FIR, drawn spot mahazar on 05-12-2014 from 10.00 pm to 10.45 pm in the presence of CW2 namely Sri Suresh Kumar and CW3 namely Sri Kumaresh as per Ex.P2 and handed over the case papers to CW12.



4. Investigation: After receipt of case papers, CW12/PW2 Sri Mahesh,M., continued the investigation, CW8 to CW10 namely Sri Gunashekar, Sri Srinivas and Sri Lokesh produced the accused No.1 and 2 along with report as per Ex.P3, as per voluntarily statement of accused registered Cr.No.376/2014, as the accused person snatched the mobile phone within the limits of station and seized the mobile phone through seizure mahazar as per Ex. P. 4 from the house of accused No.2 on 23-2-2015 from 5.15 pm to 6.00 pm. Later panchanama as per Ex.P5 was drawn on 28-02-2015 from 11 am to 12 pm, recorded the statement of requisite witnesses, after completion of investigation he submitted the charge sheet.

5. On receipt of split up charge sheet, NBW was issued against accused No.1.

6. The presence of accused is secured through body warrant.

7. Copies of prosecution papers as required U/Sec.207 of Cr.P.C have been furnished to the accused No.1.

8. Charge: After hearing learned Senior APP and counsel for accused No.1, charge for the offence punishable U/Sec 392 of Indian Penal Code has



been framed, read over and explained to the accused in the language known to him, who, in turn, pleaded not guilty and claimed to be tried.

9. **Prosecution Evidence:** The prosecution in order to establish its case cited 13 witnesses and examined 3 witnesses and exhibited 5 documents and closed their side. The examination of CW10 was given up by the order dated 27/01/2026 as he arrested the accused No.1. The presence of CW2 and CW3, CW4 to CW6 could not be secured despite due execution of proclamation and hence their examination was dropped out by order dated 21-01-2026 and 12-03-2026. On account of examination of CW10, the examination of CW9 is given up by the order dated: 11-06-2026. Sufficient opportunities provided to secure the presence of CW8 and CW13 however failed to secure them and hence the examination of CW8, CW13 is dropped out by the order dated 04-07-2026.

10. **Accused statement as per section 313 of CrPC:** After completion of evidence of prosecution, the accused No.1 was examined as per section 313 of Cr.P.C, wherein he denied all incriminating evidence appearing in the statement of prosecution witnesses and did not lead any rebuttal evidence.



11. Heard the arguments. Perused materials on the record.

12. The following point are arises for consideration is as follows;

1. Whether the prosecution proved beyond all reasonable doubt that On 05-12-2014 at around 9.25 pm, while CW1 namely Sri Chandramouli was walking on the 4th main road in Ganga Nagar, within the limits of R T Nagar police station, Bengaluru City, accused No.1 was riding a Hero Honda vehicle and accused No.2 was a pillion rider had snatched the Lenovo mobile phone worth of Rs.20,000/- from CW1 and ran away from the spot with their vehicle thereby resulted in commission of an offence punishable u/Sec.392 read with section 34 of IPC?

2. What order?



13. The court's findings on the above points are as under:

Point No.1 : **In the Negative**
Point No.2 : As per final order

R E A S O N S

14. **Point No.1:** In support of prosecution case as narrated in paragraph 2 and the point for consideration in paragraph 12 of this judgment, the prosecution examined the witnesses which are as follows;

i. **CW1 namely Sri S.S.Chandramouli, being informant examined as PW1** deposed that, on 05-12-2014 at 09:15 pm, when he was walking towards park by talking on his mobile phone, the accused came on his two-wheeler behind him and snatched his mobile phone and ran away from the spot, hence he filed Ex.P1 complaint, police conducted spot mahazar as per Ex.P2 from 10 pm to 10:45 pm. Later, he went to the police station and identified the mobile phone and released the same. He identified the Lenovo mobile as MO1 and returned to him.

ii. **CW12 namely Sri Mahesh.M., PSI examined as PW2** and deposed that, after receipt of case papers from CW11, CW8 to CW10 produced the accused persons along with the vehicle and



submitted the report as per Ex.P3 and recorded the statements of CW9 and 10. The accused in his voluntary statement stated that he snatched the mobile phone in crime No.376/2014 and on 23-02-2015 from 5.15 pm to 6 pm, the mobile phone was seized from the house of accused No.2 at No.20, 7th Cross, Chamundinagar Main Road in the presence of CW4 namely Sri Mahesh Patel and CW5 Sri Kottesh through seizure panchanama as per Ex.P4. The two-wheeler was used to snatch the mobile phone was searched at parking lot of Veterinary Hospital on Bellary Main Road and not found and hence he conducted panchanama as per Ex.P5 and handed over the case papers to CW13.

iii. CW10 namely Sri Lokesh, PC examined as PW3 and deposed that on 23-02-2015, CW12 deputed himself, CW8 and CW9 to trace out the accused, accordingly, they caught the accused on KHB Main Road and inquired about the vehicle and produced the accused along with the vehicle before CW12 and submitted the report.

15. The cardinal principle of the criminal law is that the accused is presumed to be innocent till he is proved guilty beyond any reasonable doubt. The burden of proving the guilt of the accused, exclusively lies upon the prosecution and the prosecution is



required to stand on its own strength. The benefit of doubt, if any, must go in favour of accused.

16. The relevant provision of law is under section 392 of IPC has been extracted as under

Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

The relevant provision under IPC which defines robbery is section 390 of IPC which reads as under

In all robbery there is either theft or extortion.

When theft is robbery.— Theft is “robbery” if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or



attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

When extortion is robbery.— Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.— The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Thus, the prosecution in order to substantiate its case is required to prove the following ingredients as mentioned U/s 392 of IPC



1. Accused committed theft as defined in Section 378 in the process;
2. Accused caused or attempted to cause to some persons -
 - i) death, hurt or wrongful restraint;
 - ii) fear of death or of instant hurt or instant wrongful restraint;
- 3) Accused did either act -
 - a) in committing such theft, or
 - b) in order to commit theft, or
 - c) in carrying away or attempting to carry away the property obtained by such theft.
4. Accused acted voluntarily.

Thus, the identity of the accused No.1 in a criminal trial is of paramount importance and no person can be indicted for criminal liability, unless his identity is established beyond any shadow of doubt.

17. In the case on hand, the evidence of PW1 who is informant for the alleged offence to the prosecution case, however has not identified the



accused in this case. In his examination in chief, he deposed as under

xxxxxx ಪೊಲೀಸರು ತಾಣೆಯಲ್ಲಿದ್ದ ಇಬ್ಬರು
ಆರೋಪಿತರ ವಶದಿಂದ ಮೊಬೈಲನ್ನು
ಜಪ್ತಿಪಡಿಸಿರುತ್ತೇವೆ ಎಂದು ತೋರಿಸಿದ
ಮೇರೆಗೆ ಆರೋಪಿತರನ್ನು ನೋಡಿರುತ್ತೇನೆ.

From the above recital, it appears that accused were identified by CW1/PW1 on the version of police. Thus, the accused No.1 was not identified by the PW1 as he did not see the accused persons at the time of alleged incident.

18. PW1/victim has stated in the spot mahazar that he was unable to identity the accused persons and vehicle used for commission of offence as it was a dark place.

19. PW1 did not provide any description of mobile except by stating that it was lenovo mobile.

20. In furtherance, to infer the wrongful restraint or any hurt caused during the process of snatching the mobile, there could have been some injury however no such evidence as such medical certificate was produced to probablize the case of prosecution about the wrongful restraint or hurt.



21. Added to which, the presence of Pancha witnesses namely CW2 Sri Suresh Kumar s/o Sathya Nathan and CW3 Sri Kumaresh s/o Sathyaraj was not secured by the prosecution to prove the authenticity of spot mahazar as per Ex.P2.

22. The Voluntary statement of accused No.1 which was recorded on 23-02-2015

2) ಈಗಾದ 4 ತಿಂಗಳ ಬಳಿಕ ನಾನು ಮತ್ತು ಹರ್ಷದ್ ಸೇರಿಕೊಂಡು ಹಗಲು ವೇಳೆಯಲ್ಲಿ ಕನಕ ನಗರದ ಒಂದು ರಸ್ತೆ ಬದಿಯಲ್ಲಿ ಬೀಗ್ ಹಾಕಿ ನಿಲ್ಲಿಸಿದ್ದ ಒಂದು ಹೀರೋ ಹೊಂಡಾ ಮೋಟಾರು ಸೈಕಲಿನ ಹ್ಯಾಂಡಲನ್ನು ಬಲವಂತವಾಗಿ ಮುರಿದು ಕಳವು ಮಾಡಿಕೊಂಡು ಬಂದು ನಾವೇ ಓಡಿಸಿಕೊಂಡಿದ್ದೆವು.

3) ಅದೇ ದಿನ ನಾನು ಮತ್ತು ಹರ್ಷದ್ ಸೇರಿಕೊಂಡು ರಾತ್ರಿ ವೇಳೆಯಲ್ಲಿ ಕಳವು ಮಾಡಿದ ಹೀರೋ ಹೊಂಡಾ ಮೋಟಾರ್ ಸೈಕಲ್ ನಲ್ಲಿ ಗಂಗಾ ನಗರದ ಒಂದು ರಸ್ತೆಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ಯಾರೋ ಆಸಾಮಿಯು ಮೊಬೈಲ್ ಪೋನ್ ನಲ್ಲಿ ಮಾತನಾಡಿಕೊಂಡು ಹೋಗುತ್ತಿದ್ದಾಗ ನಾನು ಮೋಟಾರು ಸೈಕಲನ್ನು ಆಸಾಯ ಪುಂದಿನಿಂದ ನಿಧಾನವಾಗಿ ಓಡಿಸಿಕೊಂಡು ಹೋದಾಗ ಹಿಂದೆ ಕುಳಿತಿದ್ದ ಹರ್ಷದ್ ಆಸಾಮಿಯ ಕೈಯಿಂದ ಮೊಬೈಲ್‌ನ್ನು ಕಿತ್ತುಕೊಂಡು ಪರಾಗಿಯಾಗಿರುತ್ತೇವೆ. ಮೊಬೈಲ್ ಪೋನ್‌ನ್ನು ಹರ್ಷದ್ ತೆಗೆದುಕೊಂಡು ಹೋಗಿರುತ್ತಾನೆ, ಸದರಿ ಮೋಟಾರ್ ಸೈಕಲ್ ಇದ್ದಕ್ಕಿದ್ದಂತೆ ಕೆಟ್ಟು ಹೋದಕಾರಣ ಮೋಟಾರು ಸೈಕಲನ್ನು ವೆಟರ್ನರಿ ಆಸ್ಪತ್ರೆಯ ಬಳಿ ಬಿಟ್ಟು ಹೋಗಿರುತ್ತೇವೆ.



Seizure mahazar was drawn on 23/02/2015 in the presence of witnesses namely CW4 Sri Mahesh Patil, Aged about 48 years, S/o Sadhashiva Patil resident of Gayatri Vihar Choultry, Aramane Maidana, Mekari Circle, Bangalore and CW5 Sri Koteshe Aged about 25 years S/o Ramulu residing at No. 59, 4th Main, Gangappa Block, Ganganagar, R T Nagar, Bangalore however they were not secured by the prosecution **to prove the authenticity of Ex.P4 seizure mahazar.**

23. Added to which, alleged seizure was taken place at No.20, 1st Cross, Chamundi Nagar Main Road, Kanakanagar, Bangalore and bounded on the East by residential house No. 19, West by residential house No.21, North by 7th Cross, and south by residential houses however the best witnesses would be immediate neighbours to speak about the search made by the investigating officer however the PW2 did not make any attempt to call the local inhabitants for the mahazar for the alleged search taken place on 23/02/2015 in the house of accused No.2. It has been held in the case of **Pradeep Narayana Vs State of Maharastra reported in AIR 1995 Supreme Court 1930** wherein it was held that failure of police to join witness from locality during search creates doubt about fairness of the investigation, benefit of which has to go to the accused.



24. Added to which, no station house diary was put forth before this court to corroborate that PW2 have gone to such places for investigation.

25. No photographs taken or video graphed at the time of drawing of seizure mahazar on 23/02/2015 as per Ex.P4. The timing of the alleged voluntary statement was not mentioned though it was alleged to have recorded on 23/02/2015 and hence no credential value could be attached to the alleged seizure of alleged lenova mobile.

26. The prosecution thus failed to establish the ingredients of the offence punishable under section 392 of IPC, thereby accused No.1 and 2 are entitled to be acquitted for the said offence and hence this court answers the above **point No.1 in the negative.**

27. Point No.2:- For the foregoing discussion and the findings to the above point No.1, this court proceeds to pass the following:

ORDER

Acting U/Sec.248(1) of the Cr.P.C.

(i) The accused No.1 is found not guilty and acquitted from the offence punishable under Section 392 of IPC.



(ii) Accused No.1 is set at liberty.

(iii) In view of Section 437-A of Cr.P.C his bail bond shall be in force for 6 (six) months.

(iv) Ordered accordingly.

(Dictated to the stenographer directly on computer, typed by steno, verified and corrected by me in laptop, then the judgment pronounced by me in the open court, on this the 08th day of July, 2026)

(Deepa.V.),
VIII Addl. Chief Judicial
Magistrate, Bengaluru City.

ANNEXURE

Witnesses examined for Prosecution :

PW1 :	Sri S.S.Chandramouli	Informant
PW2:	Sri Mahesh.M.	PSI/IO
PW3:	Sri Lokesh	PC

Documents marked on behalf of Prosecution:

Ex.P1:	Complaint (Copy)	PW1
Ex.P2:	Spot mahazar (Copy)	PW1



Ex.P3:	Report (Copy)	PW2
Ex.P4:	Seizure mahazar (Copy)	PW2
Ex.P5:	Panchanama	PW2

Material Objects marked on behalf of prosecution: NIL

Witnesses examined for the defence: NIL

Documents marked on behalf of the defence: NIL

VIII Addl. Chief Judicial
Magistrate, Bengaluru City.



08-07-2026

While preparing for judgment it is noticed that, the accused No.1 has not obtained bail in this case. The case is already posted for judgment and hence, the accused is directed to **execute personal** bond for a sum of Rs.50,000/-

Office to take bond, accordingly.
For judgment.

Judgment pronounced in the open court vide separately

ORDER

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**VIII ACJM,
Bengaluru City.**