

**IN THE COURT OF MS. TWINKLE WADHWA
ADDL. SESSIONS JUDGE-02 (NORTH EAST)
KARKARDOOMA Courts : DELHI**

SESSIONS CASE No.	206/2021
FIR No.	214/2020
Police Station	Bhajanpura
Under Section	394/34 IPC, 411/397 IPC and 27 of the Arms Act
Instituted on	30.03.2021
Argued on	17.01.2026
Decided on	24.03.2026
Final Order	Convicted

- State Vs. 1. Imran**
Son of Rashid
Resident of Gali No.4, Nehru Vihar, Delhi
- 2. Imran @ Model**
Son of Abdul Rehman
Resident of B-130, Gali No.20,
Jauddinpur, New Mustafabad, Delhi

For State : Sh. Abhishek Pandey, Additional Public Prosecutor

For defence : Sh. S. N. Qureshi, Advocate for accused Imran S/o Rashid.

Sh. Vijay Goswami, Advocate for accused Imran @ Model

JUDGMENT

Brief facts of the case

1. On 17.03.2020, at about 8:00–8:25 pm, the incident in question took place in the area of Yamuna Vihar. As per the prosecution version, Saurabh Gupta, who is victim in the present case, had gone towards Yamuna Vihar on his scooty to purchase goods. When he reached near Bhim Dairy, two persons riding a motorcycle approached him, and the pillion rider snatched his Oppo mobile phone. PW2 chased them and near Zaika Restaurant, his scooty collided with their motorcycle, causing all of them to fall. He managed to apprehend both the accused, but during the scuffle, one of the accused took out a pistol and fired 2–3 rounds at him, resulting in bullet injuries on his stomach and thigh. Taking advantage of the situation, one accused managed to escape, while he held onto the other accused.
2. At the same time, Sh. Ravinder, who is the complainant in the present case, was passing through the road from Noor Elahi to Anand Sagar on his motorcycle, heard a gunshot and noticed three persons scuffling, with one of them raising alarm that his mobile phone had been snatched. PW1 chased one of the fleeing persons towards Anand Sagar,

apprehended him after about 50 steps, and recovered a pistol from his possession. Public persons gathered at the spot and apprehended the accused, who was later handed over to the police. Injured Saurabh Gupta was taken to the hospital for treatment.

3. On 22.12.2021, charge for offence under section 394/34 IPC was framed against both the accused. Also, charge for offence under section 411 IPC was framed against accused Imran s/o Rashid. Further, charge for offences under sections 397 IPC and 27 of the Arms Act were framed against accused Imran @ Model s/o Abdul Rehman.

Witnesses Examined

Prosecution Witness No.	Name of Witness	Description
PW-1	Ravinder	Complainant / Eye witness (Police official who apprehended accused and recovered pistol)
PW-2	HC Virender	Duty HC, GTB Hospital (handed over sealed exhibits)
PW-2	Saurabh Gupta	Injured / Victim
PW-3	HC Ram Roop	Police witness (recovery of mobile phone)
PW-4	ASI Satender Singh	First Investigating Officer
PW-5	Dr. Saurabh	Medical witness (MLC identification)
PW-6	Ms. Manisha Upadhyay	FSL Expert (Biology)
PW-7	SI Himmat Singh	Duty Officer (FIR registration)
PW-8	SI Rahul	Investigating Officer (charge sheet)

Exhibited Prosecution

Exhibit No.	Description of the Exhibit	Proved by / Attested by
Ex. PW1/A	Statement of complainant Ravinder	PW-1 Ravinder
Ex. PW1/B	Site plan of place of incident	PW-8 SI Rahul
Ex. PW1/C	Sketch of pistol, magazine and cartridges	PW-4 ASI Satender Singh
Ex. P1 (colly)	Pistol with magazine and cartridges	PW-1 Ravinder / PW-4 ASI Satender
Ex. PW2/A	Seizure memo of sealed pulinda (hospital exhibits)	PW-2 HC Virender
Ex. PW2/B	Seizure memo of hand wash, swabs and other exhibits	PW-2 HC Virender
Ex. PW2/Article-1	T-shirt of injured	PW-2 Saurabh Gupta
Ex. PW2/Article-2	Lower/Pyjama of injured	PW-2 Saurabh Gupta
Ex. PW2/Article-3	Jacket of injured	PW-2 Saurabh Gupta
Ex. PW2/Article-4	Underwear of injured	PW-2 Saurabh Gupta
Ex. PW2/Article-5	OPPO mobile phone	PW-3 HC Ram Roop
Ex. PW3/A	Seizure memo of mobile phone	PW-3 HC Ram Roop
Ex. PW4/A	Seizure memo of mobile phone from accused	PW-4 ASI Satender Singh

Ex. PW4/B	Seizure memo of pistol, magazine and cartridges	PW-4 ASI Satender Singh
Ex. PW4/C	Seizure memo of sealed hospital exhibits	PW-4 ASI Satender Singh
Ex. PW4/D	Seizure memo of sealed exhibits	PW-4 ASI Satender Singh
Ex. PW4/E	Seizure memo of sealed exhibits	PW-4 ASI Satender Singh
Ex. PW4/F	Seizure memo of empty cartridges from spot	PW-4 ASI Satender Singh
Ex. PW4/G	Seizure memo of blood mixed soil	PW-4 ASI Satender Singh
Ex. PW4/H	Statement of complainant Ravinder	PW-4 ASI Satender Singh
Ex. PW4/I	Seizure memo of motorcycle	PW-4 ASI Satender Singh
Ex. PW4/J	Tehrir prepared for registration of FIR	PW-4 ASI Satender Singh
Ex. PW5/A	MLC Register entry of injured	PW-5 Dr. Saurabh
Ex. PW6/A	FSL Biology report	PW-6 Ms. Manisha Upadhyay
Ex. PW7/A	Endorsement on rukka	PW-7 SI Himmat Singh
Ex. PW7/B	Computer generated FIR	PW-7 SI Himmat Singh
Ex. PW7/C	Certificate under Section 65B IT Act	PW-7 SI Himmat Singh
Ex. PW8/A	Arrest memo of accused	PW-8 SI Rahul
Ex. PW8/B	Arrest memo of accused	PW-8 SI Rahul
Ex. PW8/C	Personal search memo of accused	PW-8 SI Rahul

Ex. PW8/D	Personal search memo of accused	PW-8 SI Rahul
Ex. PW8/E	Copy of DD No. 6A	PW-8 SI Rahul
Ex. PW8/F	PCR call form	PW-8 SI Rahul
Ex. PW8/G	Disclosure statement of accused	PW-8 SI Rahul
Ex. PW8/H	Disclosure statement of accused	PW-8 SI Rahul

Prosecution Evidence

4. Prosecution has examined 08 witnesses in this case.
5. PW1 Ravinder deposed that on 17.03.2020, at about 8:25 pm, while returning on his motorcycle bearing no. DL7SBQ6969 from the house of his relative Dharmesh Sharma, he reached the road from Noor Elahi to Anand Sagar near Building No. B/1/30, where he heard a gunshot. He saw three persons scuffling, and one of them was shouting, “*Bachao, Bachao, inhone mera mobile chheen liya hai.*” PW1 stopped his motorcycle and noticed that one of the three persons ran towards Anand Sagar. PW1 chased and apprehended him after about 50 steps. The said person was holding a pistol, which PW1 took from his hand. Meanwhile, public persons gathered and started beating the apprehended person.
6. PW1 further deposed that he pacified the public persons, disclosed that he was a police official, and brought the apprehended accused to the spot where another accused had already been apprehended by the injured Saurabh, who was crying for help. PW1 noticed that blood was

oozing from the thigh of Saurabh. The accused apprehended by PW1 disclosed his name as Imran @ Model, and the other accused disclosed his name as Imran. Police officials from the Crack Team of PS Bhajanpura and ASI Satender reached the spot. PW1 handed over the pistol recovered from accused Imran @ Model to ASI Satender, who recorded PW1's statement Ex. PW1/A. The injured was taken to the hospital by public persons in a TSR. The IO prepared the site plan Ex. PW1/B at PW1's instance. On checking, one magazine containing three live cartridges was found in the pistol. ASI Satender prepared its sketch Ex. PW1/C and sealed the articles with the seal of "SS" vide seizure memo. PW1 identified both accused during testimony and also identified the pistol and ammunition Ex. P1 (colly) as the same recovered from accused Imran @ Model.

7. During cross-examination, PW1 deposed that ASI Satender prepared the rukka at the spot around 9:00 PM, which was taken by Ct. Ashwani at about 9:15–9:20 PM for registration of FIR. He remained associated with the investigation till midnight, stayed at the spot till about 10:00 PM, and thereafter went to the PS with the SHO. He stated that SHO and PCR officials inquired from him and he narrated the same facts. Although he had a mobile phone, he did not make any PCR call and was unaware as to who informed the police. The PCR van reached within 5–6 minutes, by which time the injured had already been taken to the hospital. PW1 further stated that the sealed parcel (Ex. P1) was handed over by ASI Satender to the SHO and Crime Team. On the next day, SI Rahul made inquiries from him at the PS, though he did not remember if his statement was recorded. He admitted that he had not

witnessed the actual snatching and had only heard gunshots before noticing a scuffle from a distance of 5–6 meters. He stated that no public persons were present at that time and he spoke to the injured only after apprehending one accused. He had not signed the seizure memo of the pistol, though he had signed its sketch, and no public persons were joined in investigation in his presence.

8. PW1 further deposed that there was no divider at the spot due to a T-point and a DJB pumping station was nearby, though no official from there was joined in investigation. His statement was recorded on the pavement, and the sketch of the pistol was prepared prior to its seizure memo. He had parked his motorcycle 2–3 meters away and had not seen the actual firing, only heard two gunshots. The Crime Team reached within 5–6 minutes, and the injured was taken to the hospital in a TSR. The pistol was sealed by the IO in his presence and handed over to Ct. Ashwani. PW2 HC Virender deposed that on 17.03.2020, he was posted at GTB Hospital as Duty HC. On that day, the doctor handed over to him one sealed pulinda containing the clothes of injured Saurabh Gupta pertaining to MLC No. B/2551/14/20 dated 18.03.2020, along with sealed pulindas of left hand wash, right hand wash, wound swab, wound swab-2, wound swab-3, control swab, and the sample seal of the hospital. IO/ASI Satyender came to the hospital and PW2 handed over all the exhibits to him in intact condition. The IO took the said exhibits into possession vide seizure memos Ex. PW2/A and Ex. PW2/B.
9. PW2 Saurabh Gupta deposed that on 17.03.2020 at about 8:00 PM, he

went to Yamuna Vihar on his scooty to purchase goods. When he reached near Bheem Dairy, he took out his OPPO mobile phone and started checking it. Meanwhile, two persons came on a motorcycle, and the pillion rider snatched his mobile phone and fled towards Zaika Restaurant. PW2 chased them on his scooty, and they met at the T-point in front of Zaika Restaurant. PW2 struck his scooty against their motorcycle, causing all of them to fall down. PW2 apprehended both accused, and a scuffle ensued. He raised an alarm shouting, “*Bachao, bachao, mere mobile chheen kar bhag rahe hain.*” During the scuffle, one accused took out a pistol and fired 2–3 rounds at PW2, causing bullet injuries to his stomach and thigh. One accused managed to escape from his grip, while PW2 held the other. Public persons gathered at the spot, and his acquaintance Jatin also arrived and informed him that he was bleeding.

10. PW2 further deposed that the public apprehended the accused who was in his control and took PW2 to a private hospital/nursing home. During testimony, PW2 identified both accused as the persons involved in the incident. He identified the clothes he was wearing at the time of the incident, including the T-shirt (Ex. PW2/Article-1), lower (Ex. PW2/Article-2), jacket (Ex. PW2/Article-3), and underwear (Ex. PW2/Article-4), all bearing bullet holes and FSL markings. PW2 also identified the pistol with one magazine and three test-fired cartridges (Ex. P1 colly) as the weapon used during the offence and stated that accused Imran @ Model had fired upon him. PW2 further identified his OPPO mobile phone, which he had received on superdari, as Ex. PW2/Art.

11. During his cross-examination, PW2 Saurabh Gupta was shown a handwritten photocopy of an alleged statement and was asked whether it was in his handwriting, to which he replied in the negative. His signature at point A on the said statement was shown to him, but he stated that he did not remember whether it was his signature. The copy of the said statement was marked as Mark X. PW2 denied having given the said statement and denied deliberately feigning ignorance regarding the statement or the signature. He stated that he had told the police that 2–3 rounds were fired at him by the accused; however, he was confronted with his earlier statement where this fact was not recorded.
12. PW2 further deposed that he had not visited the place of incident with the police to point out the spot, nor had he shown the place where he was shot. At the time of the incident, he was using an OPPO mobile phone bearing number 9560534094, having two SIM cards, though he did not remember the number of the other SIM. At that time, he was residing with his brother and sister-in-law, and his brother had a separate mobile phone. PW2 did not remember whether he had disclosed mobile number 8010697825 to the police and stated that he had never used that number. He did not recall the exact time when he met his brother after the incident, but stated that he met him at Maujpur Chowk. PW2 had not used his OPPO mobile phone after the incident on that day and did not know whether it was used by anyone else. He had not made any call to 100 or 112. PW2 did not remember how his brother received information about the incident. His house was located about 1 to 1½ kilometers from the place of incident. Jatin was not his friend but was residing in the same locality at that time, and PW2 did

not know his mobile number. He was unaware whether the police had inquired from Jatin or from any other public person. He did not know who removed his scooty from the spot. PW2 stated that he could not say whether his brother and sister-in-law were present in the hospital as he was unconscious. In response to a court question, PW2 stated that he remained admitted in the hospital for 2–3 days. PW2 further deposed that he had not got his scooty released from the court or the PS after the incident. He could not say whether the scooty was present at his house when he returned from the hospital after treatment. During deposition, the following court questions were put to PW2:

Q. Do you still have the scooty which you were driving at the time of the incident?

A. Yes. Its registration number is 1121.

Q. Can you produce the said scooty before the court?

A. Yes.

13. PW2 further deposed that the distance between the place where his mobile phone was snatched and the place where the accused fired upon him was about half to one kilometer. At the time of chase, the road was not very crowded. He affirmed that residential houses and shops were located along the road. The road from the place of snatching led straight to the place of firing. At the place of firing, the road ended at a T-point, and the firing took place on the left side of the T-point. He stated that it was the same road from the place of snatching till the place of firing. When he hit the motorcycle of the accused with his scooty, their motorcycle fell down due to imbalance, and his scooty

also fell.

14. During cross-examination by Ld. counsel for accused Imran @ Model, PW2 stated that at the time of snatching, both accused were wearing helmets (volunteered that at the time of firing they were not wearing helmets). At the time of snatching, he was using his mobile phone and his scooty was parked on the side of the road. Public persons had seen him chasing the accused. He did not remember whether any restaurant other than Zaika Restaurant was situated near the place of firing. He was not aware of any CCTV camera installed at or near the spot. PW2 stated that he did not know complainant HC Ravinder prior to the incident and did not remember whether he met him personally or spoke to him on the phone thereafter. PW2 had not stated to the police that Jatin took him to GTB Hospital and was confronted with statement Mark X where it was so recorded. He was not in possession of his mobile phone when admitted to GTB Hospital and did not know who had its custody.
15. PW3 HC Ram Roop deposed that on 17.03.2020, he, along with HC Anil and Ct. Jogender, was patrolling in the area of PS Bhajanpura. While patrolling, they reached B-1/30, Yamuna Vihar, where a crowd had gathered. During testimony, he identified accused Imran and stated that he was being beaten by the public. They took custody of accused Imran from the crowd and conducted his search. A black OPPO mobile phone was recovered from his possession and handed over to SI Satender, who had arrived at the spot. The mobile phone was seized vide seizure memo Ex. PW3/A. The recovered mobile phone is Ex.

PW2/Article-5. Later, his statement was recorded.

16. During his cross-examination, PW3 deposed that his statement had been recorded by ASI Satender at the PS on a computer. He did not remember whether he had told the IO that he, along with HC Anil and Ct. Jogender, was on patrol in the area, that they reached B-1/30 where a crowd had gathered, that accused Imran was being beaten by the public, or that they took custody of the accused and searched him. Upon being shown his statement Mark PW3/DA, PW3 confirmed that these facts were not mentioned therein.
17. PW3 further deposed that ASI Satender arrived at the spot about 10 minutes after them, and they left the spot 20–25 minutes after ASI Satender's arrival. He did not inform the local police station before ASI Satender's arrival regarding the apprehension or recovery of the mobile. No other writing work was done by ASI Satender in his presence except the seizure of the mobile. He did not remember whether the SHO or ACP arrived during his presence. PW3 signed the seizure memo Ex. PW3/A from top to bottom. He denied that he was never at the place of incident, that he did not hand over the mobile to ASI Satender, that he signed the memo mechanically at the instance of the IO, or that he identified accused Imran at the instance of the IO.
18. PW4 ASI Satender Singh deposed that on 17.03.2020, on receipt of DD No. 66, he along with Ct. Ashwani reached near Anand Sagar, Noor Elahi Road, opposite Mayur Restaurant, where the complainant Ravinder met them. The complainant produced one person along with a pistol containing three live cartridges. The complainant apprised PW4

of the facts of the case. Injured Saurabh Gupta was also present at the spot. PW4 took custody of the accused handed over by the complainant and interrogated accused Imran @ Model. He recovered three live cartridges from the magazine of the pistol handed over by the complainant. PW4 further deposed that he prepared a sketch of the pistol, magazine, and three live cartridges after measuring them: length of pistol 20 cm, butt 9.5 cm, barrel 10.3 cm, magazine 10.5 cm, width 2.6 cm. The sketch is Ex. PW1/C. The accused apprehended by the injured was interrogated and identified as Imran, from whom a black OPPO mobile phone was recovered and seized vide memo Ex. PW4/A. The pistol, magazine, and three cartridges were kept in a transparent plastic container, converted into a pulinda, sealed with the seal of SS, and taken into possession vide seizure memo Ex. PW4/B. PW4 had earlier intimated the Crime Team, who arrived at the spot to inspect the scene of crime.

19. PW4 further deposed that at the spot, two empty cartridges and blood were lying. He left Ct. Ashwani to guard the spot and sent both accused to JPC Hospital through HC Bijender and Ct. Bijender. He proceeded to GTB Hospital and collected the MLC of injured Saurabh Gupta. Duty constable handed over sealed exhibits with the hospital's sample seal vide memos Ex. PW4/C, Ex. PW4/D, and Ex. PW4/E. PW4 tried to record the statement of Saurabh Gupta, who refused and said he would give it after treatment. PW4 returned to the spot, where the Crime Team inspected and photographed the scene of crime and advised lifting exhibits. PW4 lifted two empty cartridges and blood mixed with soil, sealed them, and seized them vide memos Ex. PW4/F and Ex. PW4/G.

He recorded the statement of complainant Ravinder, Ex. PW4/H. The motorcycle bearing registration DL11SA 5285 (make Apache), lying near the spot, was seized vide memo Ex. PW4/I. PW4 returned to the PS with the sealed exhibits and Ct. Ashwani, prepared tehrir Ex. PW4/J, and handed it to the DO for registration of the FIR. The investigation was assigned to SI Rahul. PW4 deposited the sealed exhibits and pulindas in the Malkhana and handed over documents to the DO.

20. During testimony, PW4 identified both accused. He identified the pistol with one magazine and three test-fired cartridges (Ex. PW1 colly) as the same seized by him. He also identified Ex. PW4/Article-1, the mobile phone Ex. PW2/Article-5, and the motorcycle seized by him. He stated that the registration number and make were sufficient for identification.
21. In his cross-examination, PW4 deposed that he reached the spot 8–10 minutes after receiving information. About 10–15 persons were present. The complainant handed over the pistol to him, which contained three live cartridges. The incident itself had not occurred in his presence. “KF” was engraved on the base of the fired cartridges, but he did not know the pistol’s manufacturer. PW4 wrote the statement of the complainant at the spot and obtained his signature. He left the PS vide DD No. 66 and remained at the spot for about three hours. He did not record statements of public witnesses as they refused to join the investigation. He was not aware of the injuries sustained by Saurabh.
22. PW4 further deposed that he had not recorded his own statement.

Blood was lying on the ground. The accused persons were interrogated at the PS. He did not take the injured to the hospital; HC Bijender and Ct. Bijender took them. PW4 had not seen the injured at the spot and was unaware of the public persons accompanying the complainant to the hospital. He did not prepare the site plan but prepared the sketch of the pistol, which was made of metal. The mobile phone recovered was a touchscreen Oppo. He prepared several seizure memos at the spot and did not notice any CCTV camera installed there. PW4 denied that he had never been to the spot or that any false documents were prepared at the PS.

23. PW5 Dr. Saurabh deposed that on 17.03.2020, a patient named Saurabh was brought to the hospital with alleged firearm injuries. The patient was examined by Dr. Zuha Ahmed, then working as Junior Resident, and the MLC was prepared under PW5's supervision. PW5 can identify Dr. Zuha Ahmed's handwriting and signature. Her present whereabouts are unknown. The attested copy of the MLC was shown to PW5, who confirmed it was prepared by Dr. Zuha Ahmed under his supervision. The MIC number in the attested copy is not legible. During testimony, Sh. Sunil Kumar, Jr. Assistant MRD, produced the MIC Register containing MLC No. B2551/14/2020, also in Dr. Zuha Ahmed's handwriting, exhibited as Ex. PW5/A.

24. As per the MLC, injured Saurabh Gupta sustained:

- (i) Lacerated wound over the middle of the lower abdomen (right quadrant) measuring approx. 1 cm × 0.5 cm.
- (ii) Lacerated wound around the pubic region (groin) approx. 1

cm × 0.5 cm.

(iii) Multiple abrasions over the left elbow and left hand.

(iv) Tattooing around the wounds.

25. PW5 further deposed that, according to the history recorded in the MLC, the injuries were caused by a firearm.
26. PW6 Ms. Manisha Upadhyay, Assistant Director (Biology), FSL, deposed that in this case, on 25.08.2020, a sealed parcel and sealed plastic dibbi were received at the FSL. The plastic dibbi contained dirty, earthy material described as blood-stained earth (control). The sealed parcel contained a T-shirt, pyjama (lower), jacket, and underwear, all with dirty dark brown stains. Each exhibit was separately marked in the FSL as Exhibit 10, 11a, 11b, 11c, and 11d. Biological examination confirmed the presence of blood on all exhibits. DNA examination findings, including allelic data, are detailed in her report dated 20.10.2020, exhibited as Ex. PW6/A.
27. PW7 SI Himmat Singh deposed that on 18.03.2020, at around 1:19 AM, ASI Satender handed over a rukka to him, on the basis of which the present case was registered in the PS using the CCTNS/computer system. He also made endorsements on the rukka, Ex. PW7/A, with the print exhibited as Ex. PW7/B. The certificate under Section 65B of the IT Act is Ex. PW7/C. After FIR registration, he handed over the FIR copy and original rukka to SI Rahul Kumar for investigation.
28. In his cross-examination, PW7 denied that the FIR was ante-dated or ante-time. He further denied that the FIR was not registered as stated or that the DD Register was kept in abeyance for any considerable period.

29. PW8 SI Rahul deposed that after the registration of the FIR, in the early morning of 18.03.2020, the investigation of the present case was assigned to him. He visited the spot, i.e., in front of the building Nure Elahi to Anand Sagar Road. On the road from Nure Elahi to Anand Sagar Road, at the instance of eyewitness Ravinder, he prepared the site plan as Ex.PW1/B. PW8 interrogated both the accused and thereafter arrested them vide Ex.PW8/A and Ex.PW8/B, and conducted their personal search vide Ex.PW8/C and Ex.PW8/D. During the interrogation, the accused persons admitted their involvement in the present case. PW8 recorded their disclosure statements. After arrest, the accused persons were produced before the Ld. Court and sent to JC. During that period, due to the COVID-19 pandemic, there was a lockdown, and the exhibits of the present case could not be deposited in FSL, Rohini. There was sufficient evidence against the accused persons for the alleged offence. Accordingly, he prepared the charge sheet and filed it in the Court. He annexed relevant documents, including a copy of the DD entry on the file. The attested copy of DD No. 6A is collectively Ex.PW8/E, and the PCR call form is Ex.PW8/F.
30. PW8 further deposed that the disclosure statements of the accused persons are Ex.PW8/G and Ex.PW8/H. After filing the charge sheet, the exhibits of the present case were deposited in the FSL. On receipt of the FSL result, Ex.PW6/A, he filed the same in the Court by way of a supplementary charge sheet. During his testimony, he identified both accused persons, namely Imran s/o Rashid and Imran @ Model.
31. In his cross-examination, PW8 deposed that he received the file after

12:00 midnight on 18.03.2020, and at that time, he was at the PS. Shortly after receiving the file, he called the caller mentioned in GD No. 0066A; however, PW8 is not able to recollect the name of the caller. He did not record the statement of the caller. PW8 had not checked whether the time of sending the rukka to the DO for registration of the FIR was mentioned in rukka Ex.PW-4/J. PW8 never queried or enquired from the DO as to how, in the absence of any mention of the time of production of the tehrir before him, the time of production was mentioned in the FIR. PW8 had gone through the contents of the complainant. The injured, Saurabh Gupta, met him for the first time a few days after the incident and after his discharge from the hospital. The scooty belonging to the injured was not seized by him, nor did he conduct any mechanical inspection of the same. PW8 prepared the site plan of the place where the incident of firing and assault took place; however, he did not prepare a site plan of the place where the initial incident of mobile snatching occurred, as he did not visit that location. He made enquiries from local persons regarding the place of mobile snatching (the place of snatching and the place of firing are very proximate, at a distance of around 100 to 125 meters). He did not take down the names and addresses of the persons from whom he made enquiries, as they did not cooperate. PW8 met the accused persons in the police station for the first time, around 01:15 to 01:30 am. His first visit to the place of incident was between 10:00 to 11:00 am, at which time he did not meet anyone at the spot. PW8 collected the PCR form but did not read the feedback given by the officers present at the spot after the incident.

32. PW8 deposed that he had not analyzed the case based on the feedback received and did not remember whether the complainant had disclosed the description of the accused in his MLC, though the place of incident was mentioned therein. He admitted that he had not recorded the statements of the police officials who took the complainant to the hospital. He verified that Saurabh Gupta was the user of the mobile phone in question but was unsure whether he was the subscriber of the SIM. He further stated that the mobile number mentioned by Saurabh in his statement under Section 161 Cr.P.C. was also reflected in the MLC, though in the name of Gaurav Gupta. PW8 further deposed that on 18.03.2020, he met complainant Ravinder in the morning and recorded his supplementary statement regarding preparation of the site plan. He also recorded the statement of HC Ramroop at the PS in the evening. He stated that he did not know when the case property was deposited in the malkhana and admitted that he himself had not deposited any case property. He denied all suggestions that no incident had taken place, that accused Imran was falsely implicated, that no recovery was effected, or that the investigation and documentation were fabricated or conducted at the police station.
33. In his cross-examination by Ld. counsel for accused Imran @ Model, PW8 deposed that he did not serve any notice upon Saurabh Gupta after 18.03.2020 and had not prepared any rough site plan of the place of incident. He stated that no CCTV cameras covering the spot were found and he had not checked cameras between the place of snatching and the place of incident. He also admitted that no mechanical inspection of the recovered motorcycle was conducted. Though he

verified the ownership of the motorcycle and filed documents along with superdari, no separate ownership document was filed with the charge sheet.

34. During cross-examination by the State, PW8 affirmed that in the statement of HC Ramroop recorded under Section 161 Cr.P.C., the word “Aapko” appearing from point A to A1 refers to ASI Satender. He explained that it was a clerical mistake, and the word was typed as “Aapko” erroneously. PW8 also affirmed that the recovered mobile was seized by ASI Satender, and his signature appears on the seizure memo.
35. In his re-cross-examination, PW8 denied that there was a clerical mistake in the statement of HC Ramroop under Section 161 Cr.P.C. He stated that in order to align with his deposition in cross-examination, he subsequently deposed in re-examination and accepted the suggestion of Ld. Addl. PP.

Statements of both accused were recorded under Section 313 of Cr.P.C. wherein they had denied their involvement and opted not to lead defence evidence.

Findings

37. In brief, the facts of the case are that on 17.03.2020 at about 8:00 pm, PW2 injured Saurabh Gupta had gone towards Yamuna Vihar to purchase goods on his scooty. When he reached near Bhim Dairy, he took out his mobile phone, make Oppo, and started checking the same. In the meantime, two persons came on a motorcycle and the pillion rider snatched his mobile phone then

they fled away on the motorcycle.

38. PW2 Saurabh Gupta, who was also on a scooty, chased them and he hit his scooty against their motorcycle near Zaika Restaurant, due to which both the accused persons fell down from their motorcycle, and PW2 also fell down from his scooty.
39. Saurabh Gupta apprehended both of them. They started scuffling (hatapayi) with him and he raised an alarm for help, stating that they were running away after snatching his mobile phone. In the meantime, one of the accused took out a pistol (Imran @ model, as stated by this witness) and fired 2–3 rounds at Saurabh Gupta, due to which he sustained bullet injuries on his stomach and thigh. As a result, one accused managed to free himself from his clutches, however PW2 was able to hold the other accused who was in the control of Saurabh Gupta. Then public person came. Then Saurabh Gupta was taken to the hospital. He correctly identified both the accused persons in the Court. He also identified the pistol recovered in this case. He further deposed that both the accused were carrying pistols at the time of the commission of the offence. He further stated that it was accused Imran @ Model who fired at him with a pistol at the time of the commission of the offence. His mobile phone was also seized by the IO, which he identified during his testimony.
40. In his cross-examination, he stated that at the time of snatching of the mobile phone, both accused persons were wearing helmets, however, at the time of firing, they were not wearing helmets. This

witness has consistently supported the prosecution case without any material contradictions and appears to be a reliable witness. In his cross-examination, he was asked about his signature on his statement recorded under Section 161 Cr.P.C but he stated that he is not able to recall if he signed or not but he stated that his statement was recorded by police. However, this is not a material contradiction, as the purpose of statement u/s section 161 Cr.P.C is only corroboration or contradiction. He was also confronted with his statement under Section 161 Cr.P.C., wherein it was not specifically mentioned that 2-3 rounds were fired at him. However, it is not a material omission as the fact of multiple rounds fired is evident from the MLC on record. Further, his clothes, that is, the upper as well as the lower garments, have holes in them, which indicates that multiple rounds were fired at him. Moreover, when a person suffers multiple injuries and is under severe pain, he may not be able to state the exact facts or narrate the incident in complete detail immediately.

41. Also, it is argued that he did not mention in his statement recorded under Section 161 CrPC that both the accused were having pistols in their hands where as his statement was recorded on 20.12.2020 while the date of incident is 17.12.2020, i.e., after three days of the occurrence. However, the fact that he did not mention that both accused were carrying pistol in their hands could happen as he was in severe pain due to injuries.
42. Further, in order to support its case, the IO seized the Oppo mobile

phone of the complainant, which was also produced before the Court during the testimony of PW-2 Saurabh Gupta. Further, certain questions were put to this witness during cross-examination regarding his scooty, which was not seized by the IO. The IO has also stated that the scooty of the complainant was not seized. However, seizure of the complainant's scooty was not required in the present case. It was the motorcycle which was used by the accused persons in the commission of the offence which was relevant and the same was seized during investigation, also later released on superdari. Therefore, non-seizure of the scooty of the complainant is not material to the prosecution case. Further questions were also put to PW-2 regarding who had taken his scooty from the spot. However, the witness had sustained bullet injuries and was immediately taken to the hospital for treatment. In such a situation, it cannot be expected that a witness would remember what happened to his scooty and who took his scooty to his home etc. Further, on Court question, this witness specifically stated that his scooty is still with him.

43. It has also been repeatedly argued on behalf of the accused that the FIR was registered on the statement of Ravinder and not on the statement of PW-2 Saurabh Gupta. However, perusal of the charge sheet shows that when the IO reached the spot, the injured Saurabh Gupta had already been taken to the hospital. Further, Ravinder was present at the spot and he handed over accused Imran @ Model to the IO along with the pistol containing three live cartridges. The other accused, namely Imran, son of Rashid, was

also present at the spot and he was was handed over by the Crack Team, HC Ramroop handed over the accused Imran @ Rashid alongwith mobile phone recovered to IO. Since, Ravinder was present at the spot who had also apprehended one accused in this case and had witnessed part of the incident, the preparation of the rukka on the basis of his statement appears to be natural and justified in the circumstances of the case.

44. Further, perusal of the testimony of PW-1 Ravinder shows that he was present at the spot. It is deposed by PW Ravinder in his examination-in-chief that on 17.03.2020, he was returning from the house of his relative on his motorcycle, as he had reached the road going from Noor Elahi to Anand Sagar, he heard the sound of firing and saw three persons scuffling with each other. One person was shouting for help and stating that his mobile phone had been snatched. Upon hearing this, he stopped his motorcycle and went towards them. When one person started running, he apprehended him whose name was Imran @ Model and also took the pistol from his hand. Then some public persons gathered at the spot and started giving beatings to the person who was apprehended by him. Further, he went to another accused namely Imran s/o of Rashid where he was apprehended. Also, blood was oozing from the injuries of Saurabh Gupta. In the meantime, three police officials from PS Bhajanpura also reached the spot. He handed over the accused Imran @ Model along with the pistol to the IO, ASI Satender. The injured was thereafter taken to the hospital.

45. He further deposed that the IO prepared the sketch of the pistol at his instance and also prepared the site plan. He also identified both the accused persons in the Court. He also identified the pistol recovered from the accused alongwith the magazines and three live cartridges/test-fired cartridges. This witness has deposed on the same lines as PW-2 Saurabh Gupta. There is no material contradiction which has come on record during his cross-examination. There are questions put to him regarding non-mentioning of time in the rukka. However, perusal of the rukka shows that the time is mentioned at the end of page no. 5 as 01:19 a.m. on 18.03.2020.
46. Further, this witness has specifically stated that he had not seen the incident of firing and had only heard the sound of firing. This witness has also stood the test of cross-examination and there is no reason to presume that he is not speaking the truth. Further, the bike used in the commission of the offence was seized and was released on superdari.
47. It is also pertinent to mention that at the time of passing of the order on charge, the FSL result was not received and the sanction under the Arms Act had also not been obtained. Accordingly, the framing of charge under Section 25 of the Arms Act was deferred at that stage. Subsequently, a supplementary charge sheet was filed along with the FSL result. The pistol was also exhibited in this case i.e. Ex.PW1/C. However, no charge was ever framed u/s 25 of Arms Act.

48. PW-2 Saurabh Gupta is an injured witness. There is no reason why he will falsely depose against accused persons. There is no motive imputed to the injured Saurabh Gupta to depose falsely against the accused persons. There is no motive ascribed to PW2 Saurabh Gupta for deposing falsely in the Court. In cross examination, it is only mentioned that he is deposing at the instance of police officials but there is no reason given why police officials would falsely implicate these two accused persons.
49. It is observed by Hon'ble Supreme Court of India in the judgment of '**Rajan Vs. State of Haryana (Criminal Appeal No. 3904/2025, Crl. SLP No. 13881/2025, Diary No. 43582/2018)**' that:

“33. When the evidence of an injured eye-witness is to be appreciated, the undernoted legal principles enunciated by the Courts are required to be kept in mind

(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) then or immaterial If there be any exaggeration embellishments in the evidence of an injured witness, exaggeration such contradiction, embellishment should be discarded from the evidence of injured, but

not the whole evidence or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded."

34. In assessing the value of the evidence of the eyewitnesses, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. Although in cases where the plea of the accused is a mere denial yet the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or put forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence. (See Balu Sudam Khalde and Another v. State of Maharashtra (2023) 13 SCC 365)"

50. Further, the MLC also supports the case of the prosecution that Saurabh Gupta received bullet injuries. As per the testimony of PW-5 Dr. Saurabh and the MLC placed on record, a lacerated wound was found present over the lower abdomen region along with another wound near the pubic region and multiple abrasions

over the hand and elbow, this shows that bullets were fired at Saurabh Gupta. It is not the case of the defence that PW-2 Saurabh Gupta had not sustained bullet injuries. The injuries found on his person establish his presence at the spot as well as the fact that he had sustained firearm injuries.

51. Perusal of MLC of Saurabh Gupta would show that it is mentioned on MLC that he has received firearm injury at around 08.30 pm on 17.03.2020, as stated by patient himself. Further, two lacerated wounds are present, one on lower abdomen and one near pubic region. Further, perusal of MLC would show that the word “entry” was cut and his replaced by “lacerated” by the doctor. Further, tattooing is mentioned around the wounds which show impact of the bullet around these wounds, which confirm that these are firearm injuries.
52. Also, no questions were put to the doctor during cross-examination why the entry or exit wounds were not specifically mentioned in the MLC; nor it is asked why only lacerated wound is mentioned. Further, nothing regarding the medical treatment of the injured was questioned during the cross-examination of the doctor.
53. Further, the charge has been framed against both the accused, namely Imran, son of Rashid, and Imran @ Model, under Section 394 IPC for committing robbery by using a pistol. Also, a charge has been framed against accused Imran @ Model under Section 397 IPC for using a pistol while committing the offence, alongwith charge under Section 27 of the Arms Act. Perusal of the

testimonies of the witnesses on record shows that PW-2 Saurabh Gupta has specifically deposed that the pistol was used against him by accused Imran @ Model and that the said accused fired at him with the pistol. The witness has stood the test of cross-examination on this aspect and there is nothing in his testimony to show that he is not speaking the truth. Also, there is recovery of mobile phone from Saurabh Gupta. The recovery memo of the said mobile phone has been duly proved, the seizure memo of mobile phone bears the signatures of the police witnesses.

54. On the basis of the testimony of witnesses alongwith other evidence on record, it is proved that in order to the committing of theft, the accused Imran @ Model voluntarily used firearm to cause grievous injury to the injured. **Hence, offence u/s 397 IPC as well as section 394/34 IPC is proved against him and charge under section 27 of Arms Act is also proved.**

As far as accused Imran son of Rashid, is concerned, the evidence on record establishes that he, along with co-accused Imran @ Model, committed robbery of the mobile phone (make Oppo) from the injured Saurabh Gupta and actively assisted in the commission of the crime. Accordingly, **the offence punishable under Section 394 / 34 IPC stands proved against him.**

56. Also, charge u/s 411 IPC is framed against accused Imran S/o Rashid. PW 4 ASI Satender Singh specifically deposed that accused Imran S/o Rashid was handed over to him by Saurabh Gupta and stolen mobile phone make Oppo was recovered from his

possession. The recovery memo is Ex.PW4/A. There is no cross examination on recovery of mobile from this witness. Further, it is specifically deposed by PW 3 HC Ram Roop also that he took the custody of Imran S/o Rashid from crowd and one mobile phone make Oppo was recovered from his possession. He has identified his signature on the recovery memo. Also, PW2 Saurabh Gupta had identified his mobile phone make Oppo during his deposition before the Court. Hence, it is proved that accused Imran s/o Rashid had dishonestly kept the stolen property with him and **offence u/s 411 IPC also stands proved against him.**

Conclusion

57. In view of the above discussion, both the accused are hereby convicted for charged offence u/s 394/34 IPC. Further, accused Imran S/o Rashid is convicted for the charged offence u/s 411 IPC. Accused Imran @ Model is convicted for the charged offence u/s 397/34 IPC as well as charged offence u/s 27 of Arms Act.

Announced in Open Court
as on 24.03.2026

(Twinkle Wadhwa)
Additional Sessions Judge-02
North East, Karkardooma Courts, Delhi