

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

DLNE010028702019



CNR NO.	DLNE 01-002870-2019
SESSIONS CASE No.	216/2019
FIR No.	99/2019
Police Station	Shastri Park
Under Section	392/397/307/34 IPC & 174A IPC
Instituted on	17.07.2025
Argued on	24.07.2026
Decided on	27.07.2026
Final Order	Acquitted

State	Vs.	1. Shankar Yadav S/o Rajan Yadav R/o H. No. 3513, Gali No. 1, Gagan Vihar, Ghonda, Delhi.
		2. Aakash @ Illu S/o Sunder Lal R/o Gali No. 1, House of Mohan, Kartar Nagar, Delhi (Abated

VOD 04.11.2022).

3. Manoj S/o Govind R/o H.No. 110, Gali No. 14,
A Block, Zero Pusta, Soniya Vihar, Delhi (Acquitted
VOD 31.05.2024).

JUDGMENT

1. By way of this judgment, this Court shall decide the charges levelled against the accused under sections 392/397/307/34 IPC & 174A IPC.

Brief facts of the case:-

2. The brief facts of the case are that on the intervening night of 08/09.03.2019, at about 11:00 p.m., complainant Kunal Kumar, after alighting from a bus at Signature Bridge, was proceeding towards his house at Khajuri. When he reached near the main tower of Signature Bridge, two boys approached him from behind, caught hold of him and attempted to snatch his Samsung J7 Gold mobile phone. When the complainant resisted, they robbed his mobile phone and threw him from the Signature Bridge onto the sand below, due to which he sustained injuries. He was subsequently taken to Trauma Centre, Lok Nayak Hospital, where he was medically treated.

3. On 09.03.2019, pursuant to DD No. 9A regarding admission of the injured, HC Naresh Veer reached the hospital and collected his MLC. As the injured was initially unfit to make a statement, the DD entry was kept pending. On the following day, his statement was recorded, rukka was prepared and the present FIR was registered, whereafter investigation was assigned to ASI Mahender Singh. During investigation, accused Shankar Yadav was found to have disclosed his involvement in the present case while

in custody in another FIR. He and co-accused Akash @ Illu were taken on police custody remand, during which they disclosed that the robbed mobile phone had been handed over to Sandeep @ Nakul for selling the same. Sandeep @ Nakul was formally arrested, but no recovery was effected from him. After completion of investigation, the charge-sheet was filed before the Court.

Charges

4. Vide order dated 25.09.2025, charge was framed against the accused under Sections 392/307/34 IPC to which accused pleaded not guilty to those charge. Also, on 25.09.2025, charges were framed against the accused u/s 174A IPC and 397 IPC to which also accused pleaded not guilty to those charges.

Witnesses Examined

<u>Sr. No.</u>	<u>Prosecution witness</u>	<u>Name of witness</u>	<u>Description</u>
1.	PW-1	Sh. Kunal Kumar	Complainant/Injured
2.	PW-2	SI Mahender Singh	Investigating Officer
3.	PW-3	HC Naresh Veer	First Investigating Officer
4.	PW-4	ASI Mahender Singh	Witness to proclamation proceedings under Section 82 Cr.P.C./Section 84 BNSS

Exhibited Documents

<u>Sr. No.</u>	<u>Exhibit No.</u>	<u>Description of the Exhibit</u>	<u>Proved by/Attested by</u>
1.	Ex. PW1/A	Statement of complainant	PW-1 / PW-3

2.	Mark X1/PW1	Photograph of place of occurrence	PW-1 / PW-2 / PW-3
3.	Mark X2/PW1	Invoice of Samsung J7 Gold mobile phone	PW-1
4.	Mark X3/PW1	Previous statement of complainant	PW-1
5.	Mark X4/PW1	Supplementary statement of complainant	PW-1
6.	Ex. PW2/A	Site plan	PW-2
7.	Mark X1/PW2	DD No. 45B	PW-2
8.	Ex. PW2/B	Application for production warrants of accused Shankar Yadav	PW-2
9.	Ex. PW2/C	Application for police custody remand	PW-2
10.	Ex. PW2/D	Application for production warrants of accused Sandeep @ Nakul	PW-2
11.	Ex. PW2/E	Arrest memo of accused Sandeep @ Nakul	PW-2
12.	Mark X2/PW2	Seizure memo of Samsung mobile phone	PW-2
13.	Ex. PW2/F	Arrest memo of accused Manoj	PW-2
14.	Ex. PW2/G	Supplementary statement of complainant	PW-2
15.	Ex. PW2/H	Arrest memo of accused Shankar Yadav	PW-2

16.	Ex. PW3/A	DD No. 9A	PW-3
17.	Ex. PW3/B	Rukka/Tehrir	PW-3
18.	Ex. PS1/A	Statement of Shivam	PW-4
19.	Ex. PS1/B	Statement of Selakram	PW-4
20.	Ex. PS1/C (Colly.)	Proclamation report, statements and photographs	PW-4

Prosecution Evidence:-

5. Prosecution has examined 4 (four) witnesses in this case.
6. PW-1 Sh. Kunal Kumar deposed that on 08.03.2019, he was working at Chandi Chowk. At about 11:00 p.m., after alighting from a bus at Signature Bridge, he started proceeding towards his house at Khajoori. At that time, he was wearing earphones connected to his mobile phone and was listening to music while walking on the wrong side of the bridge. When he reached the main tower of Signature Bridge, two boys suddenly approached him from behind. They immediately covered and pressed his eyes and one of them caught hold of his legs. Initially, he thought that his friends were playing a prank with him, but thereafter they laid him on the railing of the bridge and started checking his bag. He was carrying a Samsung Galaxy mobile phone fitted with a Vodafone SIM in his hand. When the assailants attempted to snatch his mobile phone, he resisted by moving his hands and legs. Despite his resistance, the assailants succeeded in snatching his mobile phone and thereafter threw him from the Signature Bridge onto the sand below. He categorically stated that none of the boys who had thrown him from the

bridge was present in Court.

7. PW-1 further deposed that after falling from the bridge, he remained lying there in an injured condition and kept weeping and crying. About thirty minutes later, some public persons gathered at the spot and a security guard enquired from him regarding the incident. He narrated the incident to the security guard, who initially did not believe him but later accepted his version. Thereafter, he called his brother through the mobile phone of the security guard. His brother reached the spot and took him to Trauma Centre, Lok Nayak Hospital, where he was medically treated. The police also reached the hospital and recorded his statement Ex. PW1/A, bearing his signatures. He further deposed that due to the fall, he suffered a fracture in his back and even at the time of his deposition, he was facing difficulty in walking. He identified the photograph of the place of occurrence, which was marked as Mark X1/PW1, and also identified the copy of the invoice of his robbed Samsung J7 Gold mobile phone in the name of his cousin brother Nitin Thakur, which was marked as Mark X2/PW1. He further stated that he could identify his mobile phone if shown to him. PW-1 further stated that the person sitting in the dock was not the person who had robbed his mobile phone. He also stated that a police official had informed him over the telephone that his case had been closed and, as he was suffering from injuries in his legs, he had expressed his inability to come. Since the witness failed to identify the accused and resiled from his earlier version, he was declared hostile and was permitted to be cross-examined by the learned Additional Public Prosecutor.

8. During his cross-examination by the Ld. APP, PW-1 admitted that two persons had thrown him onto the sand beneath the Signature Bridge and that because of the injuries sustained by him, he was unable to walk. He further admitted that he had given his statement on 10.03.2019 while suffering from pain and that he had explained the place of occurrence to the Investigating Officer. However, he expressed inability to remember whether his statement under Section 161 Cr.P.C. had been recorded on 06.05.2019. He was confronted with his previous statement marked as Mark X3/PW1 regarding the fact that he had been thrown from a height of about 30 feet, that despite his injuries he had identified the accused persons after seeing their photographs, and that the Investigating Officer had shown him the photographs of the accused persons. He either denied those portions or stated that he did not remember the same. He was further confronted with the portion of his previous statement wherein it was recorded that one accused had exhorted "Maar do saale ko" and that accused Sankar had removed his mobile phone from his pocket. The witness stated that two persons had committed the act but he did not remember their names. PW-1 further stated that he did not know accused Sankar Yadav present in Court, had never seen him before and that he was not one of the persons who had committed the offence against him. He also expressed inability to remember whether the Investigating Officer had recorded his statement on 10.05.2019 at his residence. He was confronted with his statement marked as Mark X4/PW1 wherein it was recorded that after seeing the photographs of accused Sankar Yadav and Akash @ Illu, he had identified them as the persons who had robbed his mobile phone,

assaulted him and thrown him from the bridge. The witness denied having identified any photograph except admitting the occurrence of the incident and stated that he was unable to properly communicate with the police. PW-1 denied the suggestions that he had been won over by accused Sankar Yadav, that he had negotiated with the accused or his family for compensation, that he had deliberately failed to identify the accused in Court, or that he had intentionally given false evidence after taking oath. He also denied the suggestion that he had been threatened by the parents of accused Sankar Yadav not to identify him in Court. In response to a query put by the Court as to who had committed the offence if the accused present in Court was not the offender, PW-1 stated that as about eight years had elapsed since the date of the incident, he no longer remembered who the real assailants were.

9. PW-2 SI Mahender Singh deposed that on 10.03.2019, while he was posted as ASI at PS Shastri Park, the Duty Officer entrusted him with the copy of the FIR and the rukka for further investigation of the present case. Thereafter, he along with Ct. Vijay proceeded to the Trauma Centre, Lok Nayak Hospital, where they met the injured Kunal in the presence of his elder brother Akshay. After meeting the injured, he along with Ct. Vijay and Akshay visited the place of occurrence i.e. Signature Bridge, near the tower on the way from Khajuri Chowk towards Outer Ring Road, Shastri Park. At the instance of Akshay, he prepared the site plan Ex. PW2/A, which bears his signatures at point A, and identified the signatures of Akshay thereon. He also identified the photograph of the place of occurrence marked as Mark X1/PW1.

10. PW-2 further deposed that on 22.03.2019, vide DD No. 45B, SI Sandeep of PS New Usman Pur informed him that accused Shankar Yadav had been arrested in FIR No. 209/2019 of PS New Usman Pur and during interrogation had disclosed his involvement in the present FIR No. 99/2019 as well as FIR No. 103/2019 of PS Shastri Park. DD No. 45B was marked as Mark X1/PW2. On receiving the said information, he collected the relevant papers of FIR No. 209/2019 from SI Sandeep. Thereafter, on 25.03.2019, he moved an application before the Court for issuance of production warrants of accused Shankar Yadav, the carbon copy of which was proved as Ex. PW2/B bearing his signatures. On 27.03.2019, one day's police custody remand of accused Shankar Yadav and Akash was obtained vide application Ex. PW2/C through SI Prashant.
11. PW-2 further deposed that during police custody remand, both the accused disclosed that the Samsung Golden Colour mobile phone robbed from complainant Kunal had been handed over to Sandeep @ Nakul for selling the same. They also disclosed that Sandeep @ Nakul was already lodged in judicial custody in a case under the Arms Act registered at PS New Usman Pur. After verification, he found that Sandeep @ Nakul was in judicial custody in FIR No. 220/2019 of PS New Usman Pur. Accordingly, on 28.03.2019, he moved an application for issuance of production warrants of accused Sandeep @ Nakul, which was proved as Ex. PW2/D bearing his signatures. Thereafter, he formally arrested accused Sandeep @ Nakul in Karkardooma Courts vide arrest memo Ex. PW2/E. He further deposed that he had also sought one day's police custody remand of accused Sandeep @ Nakul,

but the application was dismissed by the Court. Since nothing could be recovered from him despite his disclosure statement, he released him from custody in the present case.

12. PW-2 further deposed that on 26.05.2019, while he along with Ct. Aadesh was performing picket duty near Shastri Park Metro Depot, at about 3:30 p.m., they stopped a black colour Splendor motorcycle without registration number for checking. The rider attempted to flee but was apprehended after a chase. During his search, a button-actuated knife was recovered from his right pocket. He prepared the rukka regarding the recovery of the knife, on the basis of which FIR No. 267/2019 was registered at PS Shastri Park, and the investigation of that case was handed over to HC Sandeep. During interrogation of accused Manoj in that case, HC Sandeep found that the Samsung Golden Colour mobile phone recovered from his possession pertained to the present FIR. HC Sandeep handed over to him the seizure memo of the said mobile phone prepared under Section 102 Cr.P.C., which was marked as Mark X2/PW2. Thereafter, he formally arrested accused Manoj vide arrest memo Ex. PW2/F bearing his signatures. He correctly identified accused Manoj in Court and also stated that accused Manoj had already been acquitted vide judgment dated 31.05.2024.
13. PW-2 further deposed that during the course of investigation, Section 307 IPC was added against accused Shankar Yadav. On 28.03.2019, he moved an application for Test Identification Parade (TIP) of accused Shankar Yadav and Akash @ Illu. However, accused Akash refused to participate in the TIP proceedings and consequently the TIP

proceedings failed. He correctly identified accused Shankar Yadav present in Court and further stated that the proceedings against co-accused Akash @ Illu had abated vide order dated 04.11.2022. After completion of investigation, he filed the charge-sheet before the Court.

14. PW-2 further deposed that during investigation he had obtained photographs of certain accused persons from the Dossier Cell. As the victim was bedridden and unable to appear for TIP proceedings, he showed those photographs to the victim. After seeing the photographs, the victim identified two persons involved in the offence, namely accused Shankar Yadav and Akash. Accordingly, he recorded the supplementary statement of the victim, which had already been marked as Mark X4/PW1 and proved as Ex. PW2/G bearing his signatures. He further stated that after recording the statement, he read over the same to the victim, who admitted its correctness. According to him, the victim had refused to participate in TIP proceedings only because he had accepted his physical condition after sustaining serious injuries caused by the accused persons.
15. During his cross-examination, PW-2 admitted that the first statement of the victim had not been recorded by him but by HC Naresh Veer. He also admitted that he had not recorded the statement of Akshay at the Trauma Centre and that the site plan prepared by him was not drawn to scale. He further admitted that he neither found nor examined the public persons who had shifted the injured to the hospital. He stated that accused Shankar Yadav was arrested only on the basis of the disclosure statement made in FIR No. 209/2019 and proved the arrest

memo of accused Shankar Yadav as Ex. PW2/H. He also admitted that no recovery was effected from accused Shankar Yadav. PW-2 further admitted that he had not obtained any written permission from the Court before showing the dossier photographs to the victim and volunteered that since the victim was bedridden and unable to attend TIP proceedings, he had verbally sought guidance. He also admitted that the dossier photographs were not placed along with the charge-sheet. However, he denied the suggestion that he had shown only the photographs of accused Shankar Yadav and Akash to the victim, that he had not shown the complete set of photographs, or that he had conducted the investigation unfairly. He denied all the remaining suggestions put to him by the defence.

16. Court asked the question to PW1 that if this accused is not the one who has committed the offence to you then who was the one who did offence with you ? He replied, as eight years has elapsed since the date of the incident and he do not remember who were the real accused persons.
17. PW-3 HC Naresh Veer deposed that on 09.03.2019, while posted at PS Shastri Park, he received DD No. 9A regarding the admission of an injured person at Shushrut Trauma Centre, Lok Nayak Hospital. He along with Ct. Gaurav visited the hospital and obtained the MLC No. 2780/19 of injured Kunal. As the injured was under treatment and was not in a condition to give his statement, DD No. 9A was kept pending. He proved DD No. 9A as Ex. PW3/A bearing his signatures. He further deposed that on the following day, he again visited Shushrut Trauma

Centre along with Ct. Vijay, where he found the complainant fit to make a statement. He recorded the statement of the complainant Ex. PW1/A, which bears his endorsement at point B, and after reading over the statement to him, the complainant admitted the same to be correct. The complainant also stated that he could identify the persons who had thrown him from Signature Bridge and caused injuries to him. The statement was recorded in the presence of the complainant's brother Akshay. Thereafter, he prepared the rukka/tehrir and sent Ct. Vijay to PS Shastri Park for registration of the FIR. The tehrir was proved as Ex. PW3/B bearing his signatures. After registration of the FIR, further investigation was assigned to ASI Mahender Singh.

18. PW-3 further deposed that he thereafter visited the place of occurrence and made efforts to trace the accused persons but could not locate them. He also identified the photograph of the place of occurrence marked as Mark X1/PW1 and stated that the same pertained to the scene of crime. Thereafter, the investigation was taken over by ASI Mahender Singh.
19. PW-4 ASI Mahender Singh deposed that at the relevant time he was posted as ASI at PS IP Estate. On receiving process under Section 82 Cr.P.C./Section 84 BNSS against accused Shankar Yadav, he along with Ct. Vikram visited H. No. 55/3, Gali No. 1, K-Block, Gangotri Vihar, Delhi, which was the address of the accused. At the said address, he met two neighbours namely Shivam and Selakram, who informed him that accused Shankar Yadav had never resided at the said premises. He recorded their statements. The statement of Shivam was proved as Ex. PS1/A and the statement of Selakram was proved as Ex. PS1/B.

20. PW-4 further deposed that in compliance with the process, he pasted one copy of the proclamation outside the house of the accused and also made a public proclamation (munadi) in a loud voice in the locality. Another copy of the proclamation was affixed on the notice board of the Court. He proved the copy of the statements, photographs of affixation and munadi, along with his report, collectively as Ex. PS1/C (colly).
21. During his cross-examination, PW-4 stated that he could not tell the names of the persons whom he had met at the address of the accused. He further stated that he had not published the proclamation in any Hindi or English newspaper as the said task was not assigned to him. He admitted that he had recorded the statement of the landlord of the accused, but the same had not been filed by him. He denied the suggestion that he had never visited the address of the accused or that, for the said reason, he had not recorded the statement of the landlord. He further denied the suggestion that the photographs of affixation produced by him pertained to a different address which did not belong to the accused. He also denied the suggestion that he had not conducted the munadi in a loud voice in the locality or that the photographs of munadi related to some other area. He further denied the suggestion that he had not properly complied with the procedure prescribed under Section 82 Cr.P.C. and lastly denied that he was deposing falsely.
22. On 18.07.2026, statement of the accused Shankar Yadav was recorded under Section 351 BNSS wherein he had denied his involvement and opted not to lead evidence.

Findings

23. I have heard Ld. Counsel for all the accused as well as the Ld. APP for the State and gone through the record.
24. The sole eye-witness and injured complainant, PW-1 Kunal Kumar, notwithstanding his detailed narration of the manner of occurrence, has categorically and consistently failed to identify the accused present in Court as one of the assailants and has deposed that the accused is not the person who robbed him of his mobile phone. Although PW-1 was confronted with his earlier statements recorded under Section 161 Cr.P.C., including his purported identification of the accused on the basis of photographs shown to him by the Investigating Officer, he did not admit those portions, and the said prior statements, being inadmissible as substantive evidence save to the extent permitted under Section 145 of the Indian Evidence Act, cannot by themselves be pressed into service to found a conviction. The testimony of the formal/police witnesses, namely PW-2 and PW-3, extends only to the steps of investigation undertaken by them and does not supply the deficiency occasioned by the failure of the sole identifying witness to implicate the accused. It is a settled position of law that in the absence of identification of the accused by the complainant/injured himself, and in the absence of any other cogent, independent, or corroborative evidence connecting the accused with the commission of the offence, the benefit of the resultant doubt must go to the accused. Consequently, the prosecution has failed to bring home the charge under Sections 392/397/307/34 IPC against accused Shankar Yadav, and he is entitled to be acquitted of the said charge.

25. There is also charge u/s 174A IPC against accused Shankar Yadav. It is submitted by Ld. counsel for accused that as per statement of process server PW4, section 82 proceedings were served at H.No. 55/3, Gali No. 1, K Block Gangotri Vihar. Further, it is mentioned in his report that witnesses stated that accused never resided there. Perusal of the charge sheet would show this address is different from other addresses available on record of accused.
26. In the charge sheet filed against accused Shankar Yadav, his address is mentioned as H.No. 3513, Gali No. 1, Gagan Vihar, Ghonda. The process server executed section 82 process which is exhibited PS1/C at the address i.e. H.No. 35/3, Gali No. 1, Gangotri Vihar, K Block, Ghonda, this address is different from the address which is mentioned in charge sheet. Further, alongwith the process of section 82 Cr.P.C, statement of house owner is there who stated that no person resided at this address. Hence, section 82 Cr.P.C process was served at the wrong address.
27. In the circumstances, as section 82 Cr.P.C process was served at the wrong address he is also acquitted for the charged offence u/s 174A of IPC.

Conclusion:-

28. In view of above discussion, accused Shankar is hereby **acquitted** for the charged offences i.e. 392/397/307/34 IPC & 174A IPC.

Announced in Open Court
as on 27.07.2026

(Twinkle Wadhwa)

**Additional Sessions Judge-02
North East, Karkardooma Courts, Delhi**