

**IN THE COURT OF SHRI PUNEET PAHWA
SPECIAL JUDGE (NDPS)/ADDITIONAL SESSIONS JUDGE/
NORTH EAST DISTRICT KARKARDOOMA COURTS
DELHI**

**SESSIONS CASE NO. 331/2019
CNR No. DLNE01-003518-2019**

STATE	Versus	(1). WASEEM S/o. Sh. Riyazuddin R/o. B-162, Jhuggi, Seelampur, Delhi-110053.
		(2). IMRAN @ MUNNA S/o. Sh. Israr R/o. E-16, K-506, New Seelampur, Delhi-110053.

FIR No.	:	252/2013
PS.	:	New Usmanpur
U/s.	:	392/394/397/411/34 IPC

Chargesheet Filed On	:	28.10.2013
Chargesheet Received On:		09.09.2019
Judgment Reserved On	:	02.07.2026
Judgment Announced On:		20.07.2026
Decision	:	CONVICTION

JUDGMENT:

1. Case of the prosecution is that on receipt of information vide DD No. 17A dt. 01.08.2013, HC Jagpal reached near DDA Park, in front of Jag Pravesh Chandra Hospital alongwith Ct. Rahul, where, one Hariom met him, who had produced accused Waseem and one Chhura & mobile phone make Forme. Thereafter, HC Jagpal recorded statement of Hariom. He took measurements of the said Chhura. He also took into possession the recovered Chhura

and mobile phone. On the basis of statement of Hariom, the present FIR was got registered u/s. 392/394/397/412/34 IPC. During investigation, site plan of the place of incident was prepared at the instance of the complainant. After interrogation, accused Waseem was arrested in the present case. His disclosure statement was also recorded, wherein he disclosed name of his associate namely, Munna. During investigation, on 11.09.2013, accused Munna was apprehended from his house and after interrogation, accused Munna was also arrested in the present case. Accused Munna produced the robbed mobile phone before the IO. After completing the investigation, chargesheet u/s. 392/394/397/411/34 IPC was filed against both the accused persons.

2. Vide separate detailed order on charge, charges u/s. 392/34 & 394/34 IPC were framed against both the accused persons, namely, Waseem and Imran @ Munna and charge u/s. 397 IPC was framed against accused Waseem, to which, they pleaded not guilty and claimed trial.

3. To prove the abovesaid charges against both the accused persons, the prosecution examined as many as 09 witnesses.

PROSECUTION EVIDENCE

4. **Sh. Hari Om** has been examined as **PW-1**. He has deposed that on 01.08.2013, he alongwith his friend Bhagwan Das were going to Gandhi Nagar from Brahmpuri. At about

8:15 AM, when they reached in front of JPC Hospital, Shastri Park, Delhi, two persons came to them and overpowered them. One of the said persons was having knife with him. He pointed out towards accused Waseem and stated that he was having knife at the time of incident. He also deposed that accused Waseem alongwith his associate started beating them and pointed out knife towards them.

5. PW-1 further deposed that both the accused persons robbed the mobile phone of Bhagwan Dass and his mobile phone of Samsung company and started running away from there. Thereafter, he raised alarm and followed the accused persons and after some distance, public persons had apprehended one of the assailants, who was having knife, at that time. He also deposed that one of the public persons made call to the police and police came at the spot. Accused Waseem alongwith the knife was handed over to the police. Police also made enquiries from him and recorded his statement. He identified his signature on his statement Ex.PW1/A at point A. He also correctly identified both the accused persons in the court.

6. PW-1 further deposed that one mobile phone robbed from Bhagwan Dass was also recovered from the possession of accused Waseem. He proved the seizure memo of mobile phone Ex.PW1/B; sketch of said knife Ex.PW1/C; seizure memo of knife Ex.PW1/D; arrest memo of accused Waseem Ex.PW1/E; personal search memo Ex.PW1/F and identified his signatures at points A on the abovesaid documents. He also correctly identified the case properties i.e.

the knife, used in the incident by accused Waseem and recovered from his possession, in his presence, as Ex. P-1; the mobile phone make FORME, recovered from the possession of accused Waseem, as Ex. P-2 and another mobile phone make Samsung, as Ex. P-3.

7. **Sh. Bhagwan Das** has been examined as **PW-2**. He has deposed on the same lines as deposed by PW-1 Hari Om. Apart from it, he also deposed that on raising alarm, one of the assailants had attacked him with knife, due to which, he sustained injury on his finger. He also correctly identified the accused persons in the court as well as the case properties i.e. the knife, used in the incident by accused Waseem, as Ex. P-1 and the mobile phone make FORME, recovered from the possession of accused Waseem, as Ex. P-2.

8. **ASI Yashvir Singh** has been examined as **PW-3**. He has deposed that on 01.08.2013, he was working as Duty Officer at the PS. At about 9:05 AM, he received a telephonic information and on the basis of said information, he lodged DD No. 17A and proved the same as Ex.PW3/A. He also deposed that at about 12:00 Noon, Ct. Rahul produced a rukka before him and he made endorsement on the rukka, vide Ex.PW3/C. He also got registered FIR No. 252/13 u/s. 392/394/397/412/34 IPC and proved the computerized copy of the said FIR as Ex.PW3/B.

9. **SI Rahul Nigam** has been examined as **PW-4**. He has deposed that on 01.08.2013, on receipt of information regarding DD No. 17A, he alongwith HC Jagpal reached at DDA Park, opposite Jag Pravesh Hospital, where, they met

with complainant Hariom, who produced accused Wasim and handed over one knife and one mobile phone, which were recovered from the accused. He also deposed that HC Jagpal recorded statement of complainant and prepared sketch of the said knife, vide Ex.PW1/C and took the same into possession, vide seizure memo Ex.PW1/D. He also took into possession the said mobile phone, vide seizure memo Ex.PW1/B. On the basis of statement of the complainant, HC Jagpal prepared rukka and got the present FIR registered.

10. He further deposed that he arrested accused Waseem, vide arrest memo Ex.PW1/E and conducted his personal search, vide personal search memo Ex.PW1/F. He also recorded disclosure statement of accused Waseem, vide memo Ex.PW4/A. He also correctly identified accused Wasim in the court as well as the case properties i.e. knife as Ex. P-1 and mobile phone make FORME as Ex. P-2.

11. **SI (Retired) Jagpal Singh** has been examined as **PW-5**. He has deposed that on 01.08.2013, on receipt of information regarding DD No. 17A, he alongwith HC Jagpal reached at DDA Park, opposite Jag Pravesh Hospital, where, they met with complainant Hariom and Bhagwan Dass. Hariom had produced accused Wasim and handed over one chura (knife) and one mobile phone. Thereafter, he had prepared sketch of the said knife and proved the same, as Ex.PW1/C and took the same into possession, vide seizure memo Ex.PW1/D. He also took into possession the said mobile phone, vide seizure memo Ex.PW1/E.

12. He has further deposed that on the basis of

statement of the complainant, he had prepared rukka Ex.PW5/A and got the present FIR registered. He also correctly identified accused Wasim in the court as well as the case properties i.e. knife as Ex. P-1 and mobile phone make FORME as Ex. P-2.

13. **SI Yogender** has been examined as **PW-6**. He has deposed that on 11.09.2013, he had joined investigation of the present case with SI Pankaj Tomar and reached at Jhuggi No. E-16/K-506, New Seelampur, Delhi, where, accused Imran @ Munna was apprehended. Accused Imran @ Munna got recovered one mobile phone make Samsung and SI Pankaj Tomar took the same into possession, vide seizure memo Ex.PW6/A in his presence. SI Pankaj arrested accused Imran @ Munna in the present case, vide arrest memo Ex.PW6/B; personally searched him, vide personal search memo Ex.PW6/C in his presence. After interrogation, SI Pankaj recorded disclosure statement of accused Imran @ Munna in his presence, vide Ex.PW6/D.

14. PW-6 further deposed that accused Imran @ Munna led them at the spot of incident, where SI Pankaj had prepared pointing out memo in his presence, vide Ex.PW6/E. He also correctly identified accused Imran @ Munna in the court alongwith the case property i.e. mobile phone make Samsung recovered at the instance of accused Imran @ Munna, as Ex. P-3.

15. **Sh. Ajit Singh** has been examined as **PW-7**. He has deposed that he was working as the Nodal Officer in Vodaphone Idea. He proved the CDR of mobile no.

9540536049 for the period of 01.08.2013 to 17.10.2013, as Ex.PW7/A and the certificate U/s. 65-B of Indian Evidence Act, as Ex.PW7/B.

16. **Dr. Yogesh** has been examined as **PW-8**. He has deposed that on 01.08.2013, he examined one patient namely Waseem, vide MLC No. 774 and proved the MLC, vide Ex.PW8/A. On the same day, he also examined another patient namely Bhagwan Das, vide MLC No. 779 and proved the MLC, vide Ex.PW8/B. He had also examined another patient namely Hari Om, vide MLC No. 778 and proved the MLC, vide Ex.PW8/C. He has also deposed that on 11.09.2013 at 8:15 PM, patient namely Imran @ Munna was medically examined by Dr. Niyaz, vide MLC No. 2207. He identified the signature of Dr. Niyaz on the said MLC and proved the same, as Ex.PW8/D. He has also deposed that on 02.08.2013, patient namely Waseem was medically examined by Dr. Ashok, vide MLC No. 2002. He identified the signature of Dr. Ashok on the said MLC and proved the same, as Ex.PW8/E.

17. **Insp. Pankaj Tomar** has been examined as **PW-9**. He has deposed that he had prepared site plan of the place of incident at the instance of complainant, vide Ex.PW9/A. After interrogation, he arrested accused Waseem, vide arrest memo Ex.PW1/E, personally searched him, vide personal search memo Ex.PW1/F. He also recorded disclosure statement of accused Waseem, vide Ex.PW4/A. He had also prepared pointing out memo of the place of incident at the instance of accused Waseem, vide Ex.PW9/B.

STATEMENT OF ACCUSED

18. All the incriminating circumstances appearing in evidence against both the accused persons were put to them as required u/s 313 CrPC. Both the accused stated that they are innocent as nothing was recovered at their instance and they have not committed any offence, as alleged. They also stated that they have been falsely implicated in the present case. Accused did not opt to examine witnesses in their defence.

SUBMISSIONS OF THE PARTIES

19. I have heard Ld. Counsels for the accused persons and Ld. Addl. PP for the State.

20. Sh. F. M. Ansari, learned Addl. PP for the State has submitted that all the witnesses including the complainant have supported the case of the prosecution and all the essential ingredients of the offences against both the accused persons have been duly proved. He has contended that since the charges against both the accused have been proved beyond reasonable doubt, therefore, both the accused are liable to be convicted in the present case for the charged offences.

21. On the other hand, Sh. Abhishek Kumar, Ld. Counsel for the accused Waseem and Ms. Bornali Singh, Ld. Legal Aid Counsel for accused Imran @ Munna have argued on the contrary. They have submitted that the evidence on record is not sufficient enough to prove the guilt of the accused persons beyond reasonable doubt so as to bring home their guilt. There are several contradictions in the depositions of the witnesses examined by the prosecution. They have

argued that both these accused have already suffered a lot for about 13 years during trial, as the present FIR was got registered on 01.08.2013. Both the accused have been falsely implicated in the present case, as they have not committed any offence, as alleged. The alleged recovery of the mobile phone and knife are planted upon the accused. Therefore, both the accused are entitled to be acquitted in the present case and prayed that both the accused may be acquitted.

22. I have considered the rival submissions, put forth by both the sides.

FINDINGS

23. Perusal of the record shows that in the present case, both the accused persons have been facing trial for allegedly committing the offences U/s. 392/34 & 394/34 IPC, as on 01.08.2013 at about 8:15 AM, in front of DDA Park, opposite JPC Hospital, Shastri Park, Delhi, both the accused persons, in furtherance of their common intention, robbed the complainant Hari OM and his friend Bhagwan Das and snatched one mobile phone make FORME from the possession of Bhagwan Das and another mobile phone make Samsung from the possession of Hari Om. It is also alleged that during the abovesaid offence, both the accused persons caused simple hurt over the back of the complainant Hari Om. Further, accused Waseem is also alleged to have used a deadly weapon i.e. churra, while causing simple hurt upon the back of the complainant, for which, he has been additionally charged for committing the offence u/s. 397 IPC.

24. Sec. 390 of IPC defines robbery and Sec. 392 of

IPC provides for punishment for the offence of robbery. To establish an offence under Section 392 IPC, prosecution is required to prove the following essential ingredients: (a) the act of carrying away or attempting to carry away property, (b) the offender voluntarily causing or attempting to cause death, hurt, wrongful restraint, or fear of instant death or hurt to any person during such act. Furthermore, under Section 397 IPC, the offence becomes an aggravated form of robbery if the offender, while committing robbery as defined under Section 392 IPC, either uses a "deadly weapon," or causes grievous hurt, or attempts to cause death or grievous hurt to any person. Section 394 IPC provides for voluntary causing hurt in committing the robbery, which is also an aggravated form of robbery and provides for enhanced punishment.

25. As per the case of the prosecution, both the accused persons had committed the offence of robbery and robbed the mobile phones of the complainant and his friend, which they were carrying and while doing so, the accused Waseem also used a deadly weapon i.e. knife, while committing the said robbery against the complainant Hari Om and his friend, namely, Bhagwan Das. During the said incident, Bhagwan Das suffered injuries on his finger. On the very same day, accused Waseem was apprehended by the public person and one mobile phone make FORME belonging to Bhagwan Das was recovered from the possession of accused Waseem alongwith the knife. Subsequently, the another robbed mobile phone make Samsung was got recovered by accused Imran @ Munna.

26. The Hon'ble Supreme Court of India in case **Anil Phukan v. State of Assam**, (1993) 3 SCC 282 has held that:

"3.... So long as the single eyewitness is a wholly reliable witness the courts have no difficulty in basing conviction on his testimony alone. However, where the single eyewitness is not found to be a wholly reliable witness, in the sense that there are some circumstances which may show that he could have an interest in the prosecution, then the courts generally insist upon some independent corroboration of his testimony, in material particulars, before recording conviction. It is only when the courts find that the single eyewitness is a wholly unreliable witness that his testimony is discarded in toto and no amount of corroboration can cure that defect..."

27. In **Abdul Sayeed v. State of Madhya Pradesh, IV (2010) CCR 245 (SC)**, the Hon'ble Supreme Court has held that:

"The deposition of injured witness cannot be lightly brushed aside and the same alone can form the basis of conviction unless there are strong grounds for rejection of his evidence on basis of major contradictions and discrepancies therein as his presence at the spot cannot be doubted and his deposition must be given due weightage."

28. In it's decision in **C. Muniappan v. State of Tamil Nadu (supra)**, the Hon'ble Supreme Court has observed that:

"71. It is settled proposition of law that even if there are some omissions, contradictions and discrepancies, the entire evidence cannot be disregarded. After exercising care and caution and sifting through the evidence to separate truth from untruth, exaggeration and improvements, the Court comes to a conclusion as to whether the residuary evidence is sufficient to convict the

accused. Thus, an undue importance should not be attached to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution's witness. As the mental abilities of a human being cannot be expected to be attuned to absorb all the details of the incident, minor discrepancies are bound to occur in the statements of witnesses. (**vide Sohrab and Anr. v. The State of M.P.**, AIR 1972 SC 2020; **State of U.P. v. M.K. Anthony**, AIR 1985 SC 48; **Bharwada Bhogini Bhai Hirji Bhai v. State of Gujarat**, AIR 1983 SC 753; **State of Rajasthan v. Om Prakash**, AIR 2007 SC 2257; **Prithu Prithi Chand and Anr. v. State of Himachal Pradesh**, (2009) 11 SCC 588; **State of U.P. v. Santosh Kumar and Ors.**, (2009) 9SCC 626; and **State v. Saravanan and Anr.**)."

29. Now coming to the facts of the present case under consideration and evidence led by the prosecution to prove those facts. PW-1 Hari Om and PW-2 Bhagwan Das have very categorically stated that on 01.08.2013, when they were going to Gandhi Nagar from Brahmpuri at about 8:15 AM, two persons overpowered both of them and one of the said persons was having knife with him, who pointed out the said knife towards them and robbed their mobile phones. While doing so, they also gave beatings to them and PW-2 Bhagwan Das also sustained some injuries at the hands of the accused persons. One of the assailants i.e. accused Waseem was apprehended at the spot itself, from whose possession, one mobile phone and the said knife, which was used for commission of the offence, were recovered. Other accused Imran was apprehended subsequently and from whose possession, other mobile phone was also got recovered.

30. It is worth noticing that during investigation, an application for conducting the TIP of accused Imran was moved by the IO, however, accused Imran refused to participate in the TIP proceedings, for which, adverse inference can be taken against accused Imran. Even otherwise, both the accused persons were duly identified by PW-1 Hari Om and PW-2 Bhagwan Das in the court. The chain of circumstances was further completed by examining PW-4 HC Rahul and PW-5 SI (Retired) Jagpal Singh, who had visited the spot, after receiving the call regarding the alleged incident and from the spot, accused Waseem was arrested. The counsels for the accused have failed to show any circumstances for falsely implicating the accused persons as neither PW-1, nor PW-2 had known the accused persons before the alleged incident. The testimonies of PW-1 and PW-2 seem to be wholly reliable and this Court is unable to find anything on record so as to reject their testimonies.

31. After considering the entire evidence and the case laws, as cited above, so far as the offences u/s. 392 & 394 IPC are concerned, this court has no hesitation in holding that the prosecution has been able to prove beyond all reasonable doubt that the accused persons in pursuance of their common intention, committed robbery of mobile phones from PW-1 Hari Om and PW-2 Sh. Bhagwan Das and while doing so, they voluntarily caused hurt to injured Hari Om, which fact has been duly proved by the oral testimonies of PW-1 and PW-2 and also vide MLC of the injured Hari Om, which is Ex.PW8/C.

32. So far as the offence u/s. 397 IPC is concerned, for the offence of Sec. 397 IPC, the prosecution has to prove that while committing the robbery, the accused Waseem had used deadly weapon or caused hurt to the victim or attempted to cause death or grievous hurt to any person. Admittedly, as per the MLC, the nature of injury suffered by the injured Hari Om was **simple hurt**. Thus, it does not fall within the category of grievous hurt, as required under Sec. 397 IPC.

33. Now, it is to be seen whether the accused persons used any deadly weapon at the time of said offence or not. It is pertinent to mention here that in his statement Ex.PW1/A, the complainant had stated that at the time of alleged offence, the boy, who was having knife, had attacked upon him. When he had stepped into the witness box as PW-1, he had corroborated the same and stated that accused Waseem was having knife at the time of incident. In his testimony as PW-1, he did state that both the accused persons started beating them and pointed out knife towards them. Similarly, witness Bhagwan Das, in his statement u/s. 161 CrPC, stated that when they raised alarm, the boy who was having knife, attacked upon him and his associate with knife. When he had stepped into the witness box as PW-2, he had stated that one of boy, who was having knife, attacked upon them, due to which, he had sustained injury on his finger. No doubt, knife is a deadly weapon and in case, knife is used, Sec. 397 IPC squarely applies.

34. In **State of Maharashtra Vs. Vinayak Tukaram Utekar, (1997) 2 Crimes 615 (Bom.)**, a knife was held to be a

deadly weapon within the meaning of Sec. 397 IPC and the testimonies of PW-1 and PW-2 clearly show that while committing the offence of robbery, accused Waseem used a knife and the dimensions of the said knife, which was recovered from accused Waseem, as per the sketch memo which is Ex.PW1/C clearly shows that the length of the knife is 34 cm and the sharp edged side of the knife is 21 cm, so, it does fall within the category of a deadly weapon, so as to attract Sec. 397 IPC. The use of the knife while committing the alleged offence must have caused alarm in the minds of PW-1 and PW-2 and since, both the accused persons gave beatings to PW-1 and PW-2, Sec. 397 IPC has been proved beyond reasonable doubts, so far as accused Waseem is concerned.

35. The prosecution has relied upon the documentary evidences/exhibits and the material objects, list of which is annexed with this detailed judgment, as FORM 'A'.

36. Thus, the prosecution has been able to prove beyond all reasonable doubts that both the accused have committed the robbery upon PW-1 and PW-2 and while doing so, they have caused hurt as well as wrongfully restrained PW-1 and PW-2 and thereby, committed the offences u/s. 392/34 & 394/34 IPC. While doing so, accused Waseem also used knife which is a deadly weapon and thus, he is also liable to be convicted for commission of offence u/s. 397 IPC.

37. In view of the above discussion, it can be said that the prosecution has been able to prove it's case beyond all reasonable doubts with respect to the offences u/s. 392/34;

394/34 & 397 IPC. Therefore, both the accused persons, namely, Waseem and Imran @ Munna are convicted for committing the offences u/s. 392/34 & 394/34 IPC. Accused Waseem is also convicted for committing the offence punishable u/s. 397 IPC.

38. Let both the accused persons be heard on the point of sentence.

**Announced in the open court
on 20th day of July, 2026**

**(PUNEET PAHWA)
Special Judge (NDPS)/Addl. Sessions Judge/
North East District/Karkardooma Courts/Delhi**

FORM 'A'

LIST OF PROSECUTION WITNESSES

WITNES S NO.	NAME OF WITNESS	DESCRIPTION/ROLE OF THE WITNESS
PW-1	Sh. Hari Om	EYE-WITNESS
PW-2	Sh. Bhagwan Das	EYE-WITNESS
PW-3	ASI Yashvir Singh	FORMAL POLICE WITNESS/DO
PW-4	HC Rahul Nigam	WITNESS OF INVESTIGATION
PW-5	Sh. Jagpal Singh	1 st INVESTIGATING OFFICER
PW-6	SI Yogender	WITNESS OF INVESTIGATION
PW-7	Sh. Ajit Singh	FORMAL WITNESS/NODAL OFFICER
PW-8	Dr. Yogesh	MEDICAL WITNESS/DOCTOR
PW-9	Insp. Pankaj Tomar	2 nd INVESTIGATING OFFICER

LIST OF PROSECUTION EXHIBITS

EXHIBIT NUMBER	DESCRIPTION OF THE EXHIBIT	PROVED BY/ ATTESTED BY
Ex.PW1/A Ex.PW1/B Ex.PW1/C Ex.PW1/D Ex.PW1/E Ex.PW1/F Ex. P-1 Ex. P-2 Ex. P-3	Statement of the complainant. Seizure memo of the robbed mobile phone. Sketch of knife. Seizure memo of the knife. Arrest memo of accused Waseem. Personal search memo of accused Waseem. Knife. Mobile phone make FORME Mobile phone make Samsung.	PW-1 Hari Om
Ex.PW3/A Ex.PW3/B Ex.PW3/C	True Copy of DD No. 17A. Computerized copy of FIR No. 252/13.	PW-3 ASI Yashvir Singh

	Endorsement on the Rukka.	
Ex.PW4/A	Disclosure statement of accused Waseem.	PW-4 HC Rahul Nigam
Ex.PW5/A	Rukka.	PW-5 Jagpal Singh
Ex.PW6/A	Seizure memo of the mobile phone make Samsung.	PW-6 SI Yogender
Ex.PW6/B	Arrest memo of accused Imran @ Munna.	
Ex.PW6/C	Personal search memo of accused Imran @ Munna.	
Ex.PW6/D	Disclosure statement of accused Imran @ Munna.	
Ex.PW6/E	Pointing out memo prepared at the instance of accused Imran @ Munna.	
Ex.PW7/A	CDR of mobile no. 9540536049.	PW-7 Ajit Singh
Ex.PW7/B	Certificate U/s. 65-B of Indian Evidence Act.	
Ex.PW8/A	MLC No. 774 of patient Waseem.	PW-8 Dr. Yogesh
Ex.PW8/B	MLC No. 779 of patient Bhagwan Das.	
Ex.PW8/C	MLC No. 778 of patient Hariom.	
Ex.PW8/D	MLC No. 2207 of patient Imran @ Munna.	
Ex.PW8/E	MLC No. 2002 of patient Waseem.	
Ex.PW9/A	Site plan of the spot of incident at the instance of complainant.	PW-9 Insp. Pankaj Tomar
Ex.PW9/B	Pointing out memo of the spot of incident at the instance of accused Waseem.	
Ex.PW9/C	Site plan of recovery of mobile phone make Samsung	

**Announced in the open court
on 20th day of July, 2026**

(PUNEET PAHWA)
**Special Judge (NDPS)/Addl. Sessions Judge/
North East District/Karkardooma Courts/Delhi**