

IN THE COURT OF SHRI SANJAY SHARMA-I:
PRINCIPAL DISTRICT & SESSIONS JUDGE
NORTH EAST DISTRICT
KARKARDOOMA COURTS: DELHI

SC 395/2022

STATE Vs. MOHD. ARIF & Ors.

FIR No.996/2014

PS (Khajuri Khas)

Under Section 394/397/452/458/506/34 IPC

CNR No.: DLNE01-003793-2022

State

Versus

- (1) Mohd. Arif
S/o Master Maqsood
R/o D-305, Gali No. 10,
Shri Ram Colony, Delhi.
- (2) Akram
S/o Salim Khan
R/o House No. D-828, Gali No. 13,
Shri Ram Colony, Delhi.
- (3) Jaan Mohd.
S/o Shamsheer Ali
R/o House No. A-876, Gali No. 20,
Shri Ram Colony, Delhi.
- (4) Deen Mohd.
S/o Sh. Shamsheer Ali
R/o House No. A-876, Gali No. 20,
Shri Ram Colony, Delhi.

<i>Date of institution</i>	: 17.11.2022
<i>Date of reserving judgment</i>	: 14.03.2026
<i>Date of judgment</i>	: 14.03.2026

JUDGMENT:

1. The present FIR was registered on the complaint of Akbar Ali S/o Mohd. Yasin, who stated that on 16.09.2014 at 10.30 p.m., he

alongwith his wife Jahida was present on the first floor of his house bearing no. 1255, A Block, Gali No. 26, Shri Ram Colony, Delhi. Four boys entered into his house, after breaking open the main door. On seeing them, he came out from his room and accused Chand Mohd. @ Janu caught hold of his hands and accused Arif Pahalwan placed a knife on his neck. Two other boys namely Salman and Akram went inside his room, broke a beer bottle and placed it on the neck of his wife. They threatened her not to speak and thereafter, robbed Rs.60,000/-, two gold earrings (bundey), four silver bangles (kade) and one pair silver anklets (pajeb) and fled away. While fleeing away from the spot, accused persons threatened to kill them. On the complaint of complainant, the present FIR was registered against accused Mohd. Arif, Akram, Jaan Mohd. and Deen Mohd. Accused persons were arrested in the present case and charge-sheet was filed against him u/s 394/397/452/458/506/34 IPC.

2. Copies were supplied to accused persons as required under Section 207 Cr.P.C. and case was committed to Sessions Court. After hearing arguments, charge for offences punishable under Section 458/392/34 IPC was framed against all the accused persons namely Mohd. Arif, Akram, Jaan Mohd. and Deen Mohd., whereas charge for the offence u/s 397 IPC was framed against accused Mohd. Arif vide order dated 24.08.2023.

3. At the trial, the prosecution examined five witnesses in all.

(i) PW1 Ajay Tomar was the IO of the present case and further investigation of the present case was marked to him. He had proved the arrest memo of accused Akram Ex.PW1/A, his personal search memo Ex.PW1/B and his disclosure statement Ex.PW1/C. Nothing was recovered at the instance of accused Mohd. Akram. Thereafter, he was

transferred and handed over the case file to MHC(R).

(ii) PW-2 Retired ASI Shanti Lal was the Duty Officer, who had proved the present FIR as Ex.PW2/A, endorsement on rukka Ex.PW2/B, certificate u/s 65-B of Indian Evidence Act as Ex.PW2/C and DD no. 4A regarding registration of FIR Ex.PW2/D.

(iii) PW-3 Akbar Ali was the complainant who stated that during the period of incident, he was residing on rent at House No. 1258, A Block, Sri Ram Colony, Delhi as construction of his own house was going on at that time. He stated that on 16.09.2014, at about 10.30 p.m., when he alongwith his wife was present on the first floor of his rented accommodation, four boys entered forcefully into his house. Two boys caught hold him and other two boys caught hold his wife. One boy put knife on his neck. Two boys who caught hold of his wife, went inside his room and they took Rs.60,000/-, two pairs of gold earrings, four silver kada and one pair of silver anklet from the almirah. Thereafter, they all four run away from there. There was dark in the veranda, though he had seen them. He made call on 100 number. At about 11.00 p.m., police came at his house and recorded his statement Ex.PW3/A. The name of that boy who put knife on his neck was Arif, whose name he came to know at later stage from one Naim. The name of other three boys were Jaanu, Akram and Salman which he came to know at later stage, at the PS from Naim. However, he had not identified the accused persons before the Court. He was declared hostile by the prosecution and was cross-examined by Ld. Additional P.P. for the State, wherein he had admitted that those four boys entered into his house by breaking the main door of the house and while fleeing away, they extended threat to him and his wife to kill them. He had admitted that Chand Mohd. @ Jaanu had caught

hold his hands. He stated that he was not aware whether Salman was also known by name of Deen Mohd. He had admitted that Salman and Akram entered into the room, they broke the beer bottle and put the same on the person of his wife. However, when Ld. Additional P.P. pointed towards the accused persons, this witness failed to identify them as the assailants. Though he admitted his signatures on arrest memo and personal search of accused Mohd. Akram Ex.PW3/PX1 and Ex.PW3/PX2 but denied that he was arrested or personally searched by police in his presence. He has denied that he was intentionally and deliberately not identifying the accused persons as he had been won over by them and settled the present case with them.

(iv) PW-4 Jahida Begum was the wife of complainant and eye witness of the present incident. She deposed that on 16.09.2014, she was residing with her family in a rented house at House No. 1258, Gali No. 26, A Block, Shri Ram Colony and at about 10.30-10.45 p.m., four boys entered in her house out of them two boys stood outside the room and two entered inside. One of them picked up a beer bottle, broke it and placed it on her neck. The other boy opened the almirah and took out two pairs of gold earrings, four silver bangles, one pair silver pajeb and Rs.60,000/- cash and fled away. Her husband made call to the PCR. Police had made inquiries from her. Her stolen / robbed goods could never be recovered by the police. She deposed that she does not know the names of those four boys who committed the said incident. She deposed that she cannot identify those boys nor they were present in the Court. She was declared hostile by the prosecution and was cross-examined by Ld. Additional P.P. for the State, wherein she stated that accused persons, present in the Court were not the same boys, who had committed the incident with her and

further stated that it was dark at that time. She had denied the suggestion that she was deliberately not identifying the accused persons since she had been won over by them.

(v) PW-5 Retired ASI Parth was the 1st IO of the present case. He has deposed that on receipt of DD no. 26-A, he alongwith Ct. Narender reached at the spot, recorded the statement of complainant, prepared tehrir and handed it over to Ct. Narender for registration of FIR. After registration of FIR, further investigation was handed over to ASI Bijender and he handed over all the documents to him. He had proved the site plan Ex.PW5/A arrest memo of accused Deen Mohd. @ Salman and Jaan Mohd. @ Janu as Ex.PW5/B and Ex.PW5/C.

4. In the present case, complainant Akbar Ali was examined as PW-3 and his wife Jahida was examined as PW-4, both have turned hostile regarding the identity of the accused persons. No other witness has been cited by the prosecution who could establish the identity of any of the accused. The first IO PW-5 Retired ASI Parth has also been examined, who has also not fixed the identity of the accused. The other cited witnesses were all formal police witnesses and even their uncontroverted testimony would not be sufficient to secure the conviction of the accused. Hence, despite protest by the Ld. Additional P.P., their examination was dispensed with and PE was closed.

5. Since, nothing incriminating came on record against either of the accused, their examination u/s 313 Cr.P.C. was dispensed with.

6. I have heard Sh. Ramesh Bajiya, Ld. Additional PP (Substitute) for the State, Sh. Nadeem Khan, Ld. Counsel for the accused Arif @ Chikna and Sh. Rajesh Mittal, Ld. Counsel for accused Deen Mohd and Jaan Mohd. and have carefully gone through the record of the

case.

7. In the instant case, complainant PW-3 Akbar had deposed that four boys entered in his house after breaking open the main door of his house, two caught hold of him, two caught hold of his wife and one put knife on the neck of his wife and robbed Rs.60,000/-, two pairs of gold earrings, four silver kada and one pair of silver anklet from the almirah. Thereafter, while threatening they all four run away from there. He had stated that there was dark in the veranda and was unable to identify the accused persons, as the assailants. His wife PW-4 also failed to identify the accused persons as assailants.

8. I am therefore, of the opinion that there is nothing on record to connect the present accused persons with the offence alleged against them. Hence, in the absence of any incriminating evidence on record, accused Mohd. Arif, Akram, Jaan Mohd. and Deen Mohd. are acquitted of the offences punishable under Section 458/392/34 IPC whereas accused Mohd. Arif is also acquitted of the offence punishable under Section 397 IPC and they are set at liberty. Their bail bonds and surety bonds are discharged. Accused are directed to furnish bail bond u/s 437-A Cr.P.C. in the sum of Rs.10,000/- with one surety in the like amount, within one week from today.

File be consigned to Record Room.

*ANNOUNCED IN OPEN COURT
ON 14th day of March, 2026*

**(SANJAY SHARMA-I)
PRINCIPAL DISTRICT & SESSIONS JUDGE
NORTH EAST DISTRICT
KARKARDOOMA COURTS, DELHI**