

**IN THE COURT OF SH. PREM KUMAR BARTHWAL
PRINCIPAL DISTRICT & SESSIONS JUDGE
NORTH DISTRICT: ROHINI COURTS: DELHI**

In the matter of:-

CNR No. DLNT01-008898-2023

Sessions Case No. 514/2023

FIR No. 438/2023

Police Station : S.P. Badli

U/s 392/34 IPC, u/s 411, u/s 397 and u/s 25 Arms Act

State

V/s

- 1. Shahnawaz @ Pardhan**
S/o Yamin
R/o Jhuggi No. 04, Near Visahathpuri
Bhalswa Dairy, Delhi
- 2. Amarjeet @ Kalia**
S/o Inderjeet Kumar
R/o Jhuggi No. 15, Kelender Colony
Bhalswa Dairy, Delhi **.... Accused**

Date of committal to this court	16.08.2023
Final arguments concluded on	20.05.2026
Date of Judgment	29.05.2026

Appearance : Sh. Girish Giri, Ld. Addl. PP for the State.
Sh. Himesh, Ld. Counsel for accused
Shahnawaz @ Pardhan.
Sh. Robin Kamra, Ld. CLADC for the
accused Amarjeet @ Kalia.

J U D G M E N T

1. Both the accused i.e. Shahnawaz @ Pardhan and

Amarjeet @ Kalia have been sent for trial for the offences punishable u/s 392/397/411/34 Indian Penal Code (hereinafter referred to as "IPC") and u/s 25/54/59 Arms Act by the police official of Police Station S.P. Badli.

2. The facts, in brief, as borne out from the chargesheet, are that on 10.05.2023 at about 4 am at lower GTK Road near CNG Pump, Delhi, both the accused along with their two other associates committed robbery of a silver chain, two silver rings, cash of Rs. 2600/-, key of a truck bearing registration no. HR-46F-4974, leather bag containing clothes and mobile phone having two sim cards i.e. 8628835321 and 9353901628, mobile charger, copies of aadhar cards and license and further cash of Rs. 3400/- from the possession of complainant namely Narender Kumar on the point of a knife used by accused Amarjeet @ Kalia. The matter was reported to the police by the complainant on the same day and the police recorded statement Ex. PW4/A of complainant/victim Narender Kumar, on the basis of which the present case FIR was registered.

3. Both the accused i.e. Shahnawaz @ Pardhan and Amarjeet @ Kalia were arrested on the same day i.e. on 10.05.2023 vide arrest memos Exs. PW3/B and PW3/F respectively and their personal searches were also conducted vide personal search memos Exs. PW3/C and PW3/G respectively. The robbed cash of Rs. 2600/- was recovered from the pocket of accused Shahnawaz @ Pardhan and whereas the weapon of offence i.e. buttandar knife was recovered from the possession of accused Amarjeet @ Kalia. Sketch of weapon of offence was

prepared and same was seized vide sealed pullanda sealed with the seal of 'AS' vide seizure memo Ex.PW3/E.

4. Upon completion of the investigation, chargesheet was filed against the accused persons. After compliance of provisions of Section 207 Cr.PC, since the offence u/s 397 IPC is exclusively triable by the Court of Sessions, the Court of Ld. MM-02, North District, Rohini Courts, Delhi committed the present case to the Court of Sessions, under provisions of Section 209 Cr.PC for trial.

CHARGE

5. On 20.09.2023, accused Shahnawaz @ Pardhan was charged for having committed offences punishable under section 392/34 IPC & u/s 411 IPC and accused Amarjeet @ Kalia was charged for having committed offences punishable u/s 392/34 IPC, u/s 397 IPC and u/s 411 IPC. However, the aforesaid charges were subsequently amended vide order dated 18.10.2023 passed by the Ld. Predecessor of this Court and consequently, amended charge for the offence punishable u/s 392/34 IPC and u/s 411 IPC was framed against accused Shahnawaz @ Pradhan and amended charge for the offence punishable u/s 392/34 IPC, u/s 397 IPC and u/s 25 Arms Act was framed against accused Amarjeet @ Kalia. Both the accused pleaded not guilty and claimed trial.

PROSECUTION EVIDENCE

6. To substantiate its case, the prosecution has examined

following 9 witnesses in all.

Chart of Witnesses Examined

Prosecution Witness No.	Name of Witness	Description
PW-1	HC Narender	Duty Officer
PW-2	SI Mahender Pal	DD Writer
PW-3	HC Sandeep Sehrawat	Arrest witness
PW-4	Narender Kumar	Complainant/victim
PW-5	HC Anil	Arrest witness
PW-6	SI Ajay Singh	Investigating Officer
PW-7	Umesh Pratap Singh	Proved Gazette Notification dated 29.10.1980
PW-8	SI Dipesh Malik	Arrest witness
PW-9	HC Krishan Kumar	MHC(M)(Case property)

Chart of Exhibited Documents

Exhibit No.	Description of the Exhibit	Proved by/Attested by
Ex. PW1/A	Copy of FIR	PW1
Ex. PW1/B	Endorsement on the rukka	PW1
Ex. PW1/C	Certificate u/s 65B of the Evidence Act	PW1
Ex. PW2/A	Attested copy of DD No. 12A	PW2
Ex. PW3/A	Seizure memo of recovered currency notes	PW3
Ex. PW3/B	Arrest memo of accused Shahnawaz @ Pardhan	PW3
Ex. PW3/C	Personal search memo of accused Shahnawaz @ Pardhan	PW3
Ex. PW3/D	Disclosure statement of accused Shahnawaz @ Pardhan	PW3
Ex. PW3/E	Seizure memo of buttondar knife	PW3

Ex. PW3/F	Arrest memo of accused Amarjeet @ Kalia	PW3
Ex. PW3/G	Personal search memo of accused Amarjeet @ Kalia	PW3
Ex. PW3/H	Disclosure statement of accused Amarjeet @ Kalia	PW3
Ex. PW4/A	Statement of complainant/victim Narender Kumar	PW4
Ex. PW4/B	Site plan	PW4
Ex. PW6/A	Rukka	PW6
Ex. PW6/B	Sketch of the recovered buttondar knife	PW6
Ex. PW6/C	Copy of DAD Notification dated 29.10.1980	PW6 & PW7
Ex. PW9/A	Copy of Register No. 19 containing the relevant entries depositing the case properties with MHC(M)	PW9

Chart of Material Objects/Muddamals

Material Object No.	Description of the Exhibit	Proved by/Attested by
Ex.P-1 (colly)	Currency notes amounting to Rs. 2600/-	PW3, PW5, PW6, PW8
Ex. P-2	Weapon of offence i.e. buttondar knife	PW3, PW5, PW6, PW8

7. PW4 Narender Kumar i.e. complainant/victim is the material public witness and rest of the witnesses are formal witnesses i.e police officials etc.

8. After conclusion of prosecution evidence, the same was put to the accused with a view to have his version of the

events and explanation with regard to the evidence coming on record. The statement of accused u/s 313 Cr.PC was recorded in which the accused denied the allegations leveled against him and claimed that he has been falsely implicated in the present case and that the alleged knife has been planted upon him by the police. He opted not to lead any evidence in his support.

9. It is a settled law that in a criminal trial, burden to prove the guilt of the accused beyond reasonable doubt always lies upon the prosecution and the same never shifts. PW-4/complainant Narender Kumar deposed that he was driving the truck bearing registration no. HR-46F-4974 for Ads. Company, Lalun, Ambala and in the month of May 2023, he unloaded the goods at Okhla, Phase-I, Delhi, and was going towards Anand Roadways, Alipur, Delhi. He further deposed that at about 4 am, he reached near CNG Pump, Lower GTK Road, Delhi, and parked his aforesaid truck after unloading the goods and went for urinating near the bushes and when he was urinating suddenly four unknown boys came there and one of them, kicked him and one boy put a knife on his neck and threatened him and third boy forcibly robbed his silver chain which was worn by him at that time and fourth boy forcibly snatched two silver rings from the fingers of his right hand. He further deposed that the robber who had kicked him on his chest, forcibly took cash amount of Rs.2600/- and keys of his truck from the pocket of his wearing pant. The robber who was carrying the knife, remained standing with him and other three robbers went to the place where his truck was parked and they opened the doors of his truck and

robbed his leather bag containing his clothes, driving license, aadhar card and further cash amount of Rs. 3400/-. He further deposed that the accused persons also robbed his mobile charger and mobile phone make Samsung M33, which was kept on charging at that time in the truck and thereafter all the four robbers ran away towards the bushes. He further deposed that he went near his truck and other truck drivers also came there and revealed the incident to them and one of them called the police from his mobile phone and the police reached at the spot at about 6 am.

10. PW4 further deposed that thereafter he and the police officials searched for accused persons near the place of incident and in the bushes where the accused persons had run away, but no body was found there. He further deposed that thereafter he returned to the place of incident where his truck was parked and got the information from the police that one of the robbers had jumped into the *gandaa naala* near the bushes. He further deposed that thereafter police officials took him to the police station and recorded his statement Ex. PW4/A.

11. Since PW4 i.e. victim/complainant was not disclosing the entire facts of the case and failed to identify the accused persons as well as the case property, he was permitted to be cross-examined by Ld. Addl. PP for the State on his request. During his cross examination conducted by Ld. Addl. PP for the State, PW1 denied having made any statement u/s 161 Cr.PC dated 10.05.2023 Mark N. He further denied that the IO had prepared the site plan Ex. PW4/B at his instance or that the same bears his

signature at point A. He further denied that the cash amount of Rs.2600/- (4 currency notes of Rs. 500 and 6 currency notes of Rs.100) had been recovered from the possession of accused Shahnawaj @ Pradhan, in his presence. He further denied his signatures on the seizure memo Ex. PW3/A of recovered currency notes. He further denied that the IO had arrested accused Shahnawaj @ Pradhan in his presence with the help of other police personnel or had interrogated him. He voluntarily added that the police had apprehended one robber from the *gandaa naala*, whose body was covered with mud and due to this reason he could not identify him. He further denied that the IO had prepared the arrest memo Ex. PW3/B of accused Shahnawaj @ Pradhan, in his presence or that the same bears his signatures at Point-B.

12. PW4 further denied that the IO had apprehended the other accused Amarjeet @ Kalia at the instance of accused Shahnawaj @ Pradhan or that he had identified accused Amarjeet as well, as the robber. He further denied that the IO had conducted the cursory search of accused Amarjeet or that one buttondaar was knife recovered from his possession which was measured by the IO and sketch of the same was prepared. He further denied that the IO had prepared the pullanda of the buttondaar knife and had sealed the same with the seal of AS. He further denied that the IO had interrogated accused Amarjeet @ Kalia or that accused Amarjeet had confessed his crime during the interrogation. He further denied that the IO had arrested accused Amarjeet @ Kalia or that IO had prepared his arrest and personal search memos. He further denied that his statement was read over to him by the IO after recording the same. He further denied his signature at point B on the arrest memo

Ex. PW3/F of accused Amarjeet @ Kalia.

13. PW4 failed to identify both the accused persons during his testimony in the Court. He further failed to identify the said buttondar knife Ex. P-2 allegedly used by accused Amarjeet @ Kalia in committing the crime and also failed to identify the alleged robbed cash amount of Rs. 2600/- Ex. P-1.

14. PW4 further denied that he has been won over by both the accused persons, due to which, he has deliberately not identified them as the perpetrators of the crime. He further denied that he was not disclosing the complete and true facts of the case due to fear, coercion and undue influence from the accused persons. He further denied that he was deliberately not even identifying the case property and the accused persons as he wanted to save the accused persons from punishment in the present case.

15. Now testimony of another important witness of the prosecution i.e. IO/SI Ajay Singh himself who stepped into the witness box as PW6, shall be dealt with, who deposed that on 10.05.2023 at about 04.30 am, an information was received at the police station vide DD no. 12A Ex.PW2/A and on receipt of the same, he along with PSI Dipesh (PW8) reached lower GTK Road near CNG Pump where beat staff HC Anil (PW5) and HC Sandeep (PW3) met them and they produced accused Shahnwaz along with recovered case property i.e. cash of Rs.2600/-. He further deposed that complainant Narendra was also present there at that time and he recorded the statement Ex.PW4/A of the complainant and made an endorsement on the same and prepared rukka Ex.PW6/A and handed over same to PSI Dipesh for getting

the FIR registered at PS S.P. Badli. He further deposed that he inspected the site and prepared the site plan Ex.PW4/B at the instance of complainant and kept the recovered cash of Rs.2600/- in a plastic container and seized the same vide seizure memo Ex.PW3/A. He further deposed that there were four currency notes of denomination 500 and six currency notes of denomination 100. He further deposed that PSI Dipesh returned to the spot and handed over copy of FIR and original rukka to him. He further deposed that he arrested accused Shahnwaz vide arrest memo Ex.PW3/B, conducted his personal search vide memo Ex.PW3/C and recorded disclosure statement Ex. PW3/D of accused Shahnwaz wherein accused Shahnwaz disclosed that his associate namely Amarjeet lived in the area of Bhalswa Dairy. He further deposed that they accordingly went there for the search of accused Amarjeet where one boy was found standing near the dispensary and he was pointed out by accused Shahnwaz as Amarjeet @ Kalia and the complainant also identified accused Amarjeet. He further deposed that accused Amarjeet @ Kalia was apprehended and one buttondar knife was recovered from his formal search, the sketch Ex.PW6/B of which was prepared and the said knife was sealed in a pullanda with seal of AS and seized vide seizure memo Ex.PW3/E. He further deposed that accused Amarjeet was arrested vide arrest memo Ex.PW3/F, his personal search was conducted vide memo Ex.PW3/G and his disclosure statement Ex.PW3/H was also recorded. He further deposed that he recorded statements of the witnesses in this case and deposited the case property in the malkhana.

16. PW6 further deposed that he collected the copy of DAD notification dt. 29.10.1980 Ex. PW6/C and placed the same on file and after completion of the investigation, he prepared the charge-sheet and filed the same before the Court through SHO concerned.

17. During his deposition before the Court, PW6 correctly identified both the accused i.e. Shahnawaz @ Pardhan and Amarjeet @ Kalia and also identified currency notes of Rs. 2600/- being recovered from the possession of accused Shahnawaz. PW6 further identified the buttondar knife Ex. P-2 which was recovered from the possession of accused Amarjeet @ Kalia.

18. During his cross examinations conducted on behalf of both the accused persons, PW6 stated that he had reached at the spot at around 5 am and many public persons were present there at that time. He further stated that he had requested the public persons to join the investigation but none agreed and no notice was given to those public persons for not joining the investigation. He further stated that the spot was an isolated place but there were two CNG pumps near to the spot and no CCTV footage was collected from CNG Pumps. He further stated that his personal search was not offered to the accused prior to the personal search of the accused. He denied the suggestion that no currency notes were recovered from accused Shahnawaz. He further denied that no knife was recovered from accused Amarjeet. He further stated that the public persons present near the dispensary were requested to join the

investigation but none agreed and no notice was given to them as well. He further stated that they remained present at the spot for about 12-13 hours. He further denied that all the documents were prepared while sitting at the police station. He further denied that both accused have been falsely implicated in this case or that nothing has been recovered from the accused persons.

19. Rest of the witnesses are formal witnesses i.e. police officials etc. who deposed about their respective roles played by them in the investigation of the present case.

20. I have considered the submissions made by both the sides and have gone through the entire record carefully and written arguments filed on behalf of the accused.

21. Ld. Addl. Public Prosecutor for the State has argued that the material witness i.e. PW4/victim Narender Kumar himself has turned hostile since he has been won over by the accused whereas statements of witnesses were recorded correctly by the IO.

22. On the other hand, Ld. Counsels for the accused persons have argued that the accused have been falsely implicated in the present case and the complainant/victim has not even identified the accused and the knife which was allegedly used during the incident and that he also could not identify the currency notes allegedly robbed from him and in the absence of any incriminating evidence against the accused persons, they cannot be convicted.

23. As admitted by the Ld. Addl. Public Prosecutor for the State, the case of the prosecution primarily hinged on the testimony of PW4/complainant Narender Kumar who was robbed by the accused persons, as claimed by the prosecution.

24. The material witness i.e. complainant himself examined by the prosecution has not supported the case of the prosecution and nothing material has come out even in the cross-examinations of above said material witness which may help the case of the Prosecution.

25. The cardinal principle of the criminal law is that the accused is presumed to be innocent till he is proved guilty beyond any reasonable doubt. The burden of proving guilt of the accused exclusively lies on the prosecution. The benefit of doubt, if any, must go in favour of the accused. In this context, it is relevant here to mention the judgment of the Hon'ble Supreme Court in ***Ashish Batham Vs. State of M.P., (2002) 7 Supreme Court Cases 317***, where it has been observed as under:-

“Realities or Truth apart, the fundamental and basic presumption in the administration of criminal law and justice delivery system is the innocence of the alleged accused and till the charges are proved beyond reasonable doubt on the basis of clear, cogent, credible or unimpeachable evidence, the question of indicting or punishing an accused does not arise, merely carried away by heinous nature of the crime or the gruesome manner in which it was found to have been committed. Mere suspicion, however, strong or probable it may be is no effective substitute for the legal proof required to substantiate the charge of commission of a crime and grave the charge is greater should be the standard of proof required. Courts dealing with criminal cases at least should constantly remember that there is a long mental distance between ‘may be true’ and ‘must be true’ and this

basic and golden rule only helps to maintain the vital distinction between `conjectures' and `sure conclusions' to be arrived at on the touch stone of a dispassionate judicial scrutiny based upon a complete and comprehensive appreciation of all features of the case as well as quality and credibility of the evidence brought on record.”

26. It has also been held in State of **U.P. Vs. Naresh** : **(2011) 4 SCC 324**, as under :

“In all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. Where the omissions amount to a contradiction, creating a serious doubt about the truthfulness of the witness and other witnesses also make material improvement while deposing in the court, such evidence cannot be safe to rely upon. However, minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of the prosecution case, should not be made a ground on which the evidence can be rejected in its entirety. The court has to form its opinion about the credibility of the witness and record a finding as to whether his deposition inspires confidence.”

27. It has been observed by the Hon'ble Supreme Court in **1995 SCC (Crl.) 160**, as under :

“8. As a general rule, a court can and may act on the testimony of a single witness though uncorroborated provided the testimony of that single witness is found out entirely reliable. In that case, there will be no legal impediment for recording a conviction. But if the evidence is open to doubt or suspicion, the court will require sufficient corroboration. In this connection, reference may be made to a decision of this Court in Vadivelu Thevar V. State of Madras wherein this Court has classified the testimony of a witness into three categories viz. (1) wholly reliable (2) wholly unreliable and (3) neither wholly reliable nor wholly unreliable and observed that although in the first two categories of classification, there may not be any difficulty in coming to a conclusion either accepting or rejecting the testimony, it is in the third category of cases that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony either direct or circumstantial.”

28. In the judgment reported as *Namdeo Daulata Dhayagude and others v. State of Maharashtra, AIR 1977 SC 381*, it was held that where the story narrated by the witness in his evidence before the Court differs substantially from that set out in his statement before the police and there are large number of contradictions in his evidence not on mere matters of detail, but on vital points, it would not be safe to rely on his evidence and it may be excluded from consideration in determining the guilt of accused.

29. In the light of the law laid down in the afore-said judgments, this Court has to appreciate the evidence of the prosecution witnesses. PW4 Narender Kumar is the complainant/victim and so he is the most material witness of the prosecution case. However, in his examination-in-chief, he has categorically failed to identify the accused persons as the robbers. He denied any site plan being prepared at his instance or recovery of any money/robbed cash in his presence. He denied about any arrest being made in his presence. Thus, there are material and considerable contradictions in the prosecution's case qua arrest of accused persons, preparation of site plan and even recovery of robbed cash. The testimony of PW6/IO is contradicted on all these material aspects by the victim/PW4. The evidence on record does not result in conclusion beyond doubt that accuseds are responsible for committing the offences nor any other eye witness or public witness has been examined by the prosecution although there were two CNG pump stations nearby having CCTV cameras and many truck drivers had

gathered at the spot.

30. The weapon of offence i.e. buttondar knife has allegedly been recovered from the possession of accused Amarjeet @ Kalia, but no public person has been made witness with effect to the said recovery. Even, PW4/complainant on a specific question replied that he cannot identify the said knife. No doubt, the law is settled that testimony of police officials cannot be doubted simply on account of non-joining of the public witnesses. But the law is also settled that if there is easy availability of the public witnesses, to give fairness and credibility to the recovery process, all efforts should be made to join public witnesses. Reliance is placed upon the judgment of ***Sans Pal Singh Vs. State of Delhi, AIR 1999 SC 49***, wherein the Hon'ble Supreme Court has observed that in a case where public witnesses were available and could have been associated to witness the recovery, the police should make efforts to join them, otherwise, the recovery comes under the shadow of doubt. Considering the fact that the star witness of the prosecution i.e. the complainant/PW4 himself did not utter a single word against the accused persons and has not supported the prosecution story against the accused sent for trial, in the considered opinion of this court, the prosecution has fallen short of the expectations and has failed to prove its case against both the accused beyond reasonable doubt as required under the law. Accordingly, this court is of the opinion that prosecution has failed to prove the charges against the accused persons i.e. Shahnawaz @ Pardhan and Amarjeet @ Kalia beyond reasonable doubt.

31. Having considered the submissions of rival sides and material on record including the documents as well the statements of the witnesses, this Court is of the opinion that the case of the prosecution has miserably failed as it primarily rested on the testimony of its material witness i.e. PW4/complainant Narender Kumar who has not supported the prosecution's case and despite being cross-examined by Ld. Addl. PP for the State, nothing material could be elicited from his testimony. PW1 i.e. the star witness of the prosecution has categorically denied the case of the prosecution on vital aspect of complicity of the accused persons. Both the accused are entitled to benefit of doubt in the view of the testimony of the star witness of the prosecution i.e. the complainant/victim. In the considered opinion of this Court, the prosecution has failed to prove the charge against accused Shahnawaz @ Pardhan and accused Amarjeet @ Kalia beyond reasonable doubt. Accordingly, both the accused i.e. Shahnawaz @ Pardhan and Amarjeet @ Kalia are hereby acquitted for the charged offences.

32. Both the accused are directed to furnish bail bond in the sum of Rs.20,000/- each, with one surety each in the like amount, under provisions of Section 437-A Cr.PC. File be consigned to record room.

*Announced in the open court
today i.e.29.05.2026*

(PREM KUMAR BARTHWAL)
Principal District & Sessions Judge (North)
Rohini Courts, Delhi.