

IN THE COURT OF MS. VANDANA:
ADDL. SESSIONS JUDGE-02(NORTH):
ROHINI DISTRICT COURTS : DELHI

In the matter of:-

(Sessions Case No. 674/2021)

FIR No.	57/2020
Police Station	Swaroop Nagar
Charge sheet filed Under Section	392/397/411/34 IPC
Charge framed Under Section	392/397/411/34 IPC

State V/s (1) Shakir
S/o Mr. Ayub
R/o FC-538, Gali No.9/5,
Fauji Colony, Mukundpur Extn.
Part – II, Bhalswa Dairy, Delhi.
(2) Amardeep Singh
S/o Sh. Jas Karan
R/o A-228, Gali No.11,
Fauji Colony, Mukundpur Extn.,
Bhalswa Dairy, Delhi.
.....Accused persons

Date of institution	04.12.2021
Arguments concluded on	19.05.2026
Judgment Pronounced on	19.05.2026
Decision	Acquitted

JUDGMENT

BRIEF FACTS

1. Events which set the prosecution machinery into

motion are that on 21.01.2020, on receipt of DD No.31A regarding robbery on the point of knife, ASI Dharambir Sing along with Ct. Akashdeep reached at the spot of incident i.e. Alipur Pusta Road to Kadipur T Point, where they met complainant Karan Singh and his associate Gulshan, who gave his statement regarding robbery committed with him.

After recording the statement of the witnesses and on completion of the investigation, the charge sheet was filed under Section 392/397/411/34 IPC, by the IO.

CHARGE

2. On committal of the case to the Court of Sessions, vide order dated 26.07.2022 charge under Section 392/34 IPC was found to be made out against both accused persons. In addition, charge under Section 397 IPC was found to be made out against accused Amardeep Singh and charge under Section 397/411 IPC was found to be made out against accused Shakir. The formal charge as above was framed against the accused persons on the said date to which they pleaded not guilty and claimed trial.

PROSECUTION EVIDENCE

3. Thereafter, prosecution in support of its case have examined 05 witnesses in all.

Sl. No.	Prosecution witness No.	Name of witness	Description
1.	PW1	Sh.Gulshan	Eye Witness

2.	PW2	Sh.Karan Singh	Complainant
3.	PW3	SI Dharamvir Singh	First Investigating Officer
4.	PW4	SI Ayush Bajaj	Investigating Officer
5.	PW5	SI Akashdeep	Police Witness

PW1 is **Sh.Gulshan**, who is an eye witness. His deposition is as under:

“In the winter season of 2020, at around 5.30 p.m., I along with Karan were going to the agency after supplying gas cylinders. On our way, two persons came on one motorcycle and stopped us. The boy sitting on the pillion seat came towards me and the rider of the bike came towards Karan. The person who came towards me showed me some sharp edged weapon and started searching my body but he could not find anything. The bike rider also showed one knife like object to my friend Akash and took out Rs.42,000/- from the pocket of his pant. Thereafter, both of them ran away from there.

I cannot identify the persons, who committed offence with us.

I do not want to say anything else.”

He was duly cross examined by Ld. Addl. PP for the State on resiling from his earlier statement.

“At this stage, statements of the witness recorded under Section 161 Cr.P.C. which are now Ex.PW1/A and Ex.PW1/B are read over to the witness. I did not see the faces of the accused persons when the incident happened with me and my friend. It is wrong to suggest that at that time, the light of our

D van was on and I saw the faces of accused persons. It is wrong to suggest that I am deliberately not telling the truth in this regard. It is wrong to suggest that on 17.03.2020, I along with Karan visited the PS and IO had showed the photographs of 6-7 persons to us in the laptop. It is wrong to suggest that I identified two persons as the assailants from those photographs, who committed offence with me and my friend. It is wrong to suggest that the name of one person revealed as Shakir who came towards me showed pistol like object to me for the commission of the offence. It is wrong to suggest that the name of other person revealed as Amardeep, who was riding the bike and wearing helmet and showed chaku like object to Karan and took out Rs.42,000/- from the pocket of Karan. It is wrong to suggest that I am deliberately not telling the truth before the court. It is wrong to suggest that I am deposing falsely in this regard.

At this stage, the attention of the witness is drawn towards the accused persons, who are present in court today.

I do not know the persons shown to me. It is wrong to suggest that I am deliberately not identifying the accused person as I have been won over by the accused persons. It is wrong to suggest that I am deposing falsely.”

He was not cross examined by Ld. Counsel for the accused despite opportunity being granted.

PW2 is Sh.Karan Singh, who is the complainant. His deposition is as under:

“In the winter season of 2020, at around 6.00 p.m., I along with Gulshan were going to the agency after supplying gas cylinders. On our way, when we passing through Qadipur Road and

*reached at Alipur Pusta Road, two persons came from our behind on one motorcycle and stopped their bike near our van. I could not see the registration number of the said bike. The boy sitting on the pillion seat came towards Gulshan and the rider of the bike came towards me. The bike rider showed one knife like object to me and took out Rs.42,000/- from the pocket of my pant. Thereafter, both of them ran away from there. Thereafter, I along with my friend went to the police station and made complaint to the police, which is now **Ex.PW2/A** bearing my signature at point A. I showed the place of incident to the police. The site plan is now **Ex.PW2/B** bearing my signature at point A.*

I cannot identify the persons, who committed offence with us.

I do not want to say anything else.”

He was duly cross examined by Ld. Addl. PP for the State on resiling from his earlier statement.

“ At this stage, statements of the witness recorded under Section 161 Cr.P.C. which are now Mark PW2/X and PW2/Y are read over to the witness.

I did not see the faces of the accused persons when the incident happened with me and my friend. It is wrong to suggest that at that time, the light of our D van was on and I saw the faces of accused persons. It is wrong to suggest that I am deliberately not telling the truth in this regard. It is wrong to suggest that on 24.01.2020, I along with Ct.Krishan visited the office of SCRB Kamla Market for getting done the portrait of accused persons. It is wrong to suggest that on my instructions, the portrait of the bike rider was prepared. It is wrong to suggest that my statement was recorded by the police in this regard. It is wrong to suggest that on

17.03.2020, I along with Gulshan visited the PS and IO had showed the photographs of 6-7 persons to us in the laptop. It is wrong to suggest that I identified two persons as the assailants from those photographs, who committed offence with me and my friend.

It is wrong to suggest that the name of the person revealed as Amardeep, who was riding the bike and wearing helmet and showed chaku like object to me and took out Rs.42,000/- from the pocket of my pant. It is wrong to suggest that the name of other person revealed as Shakir who came towards Gulshan and showed pistol like object to him for the commission of the offence. It is wrong to suggest that I am deliberately not telling the truth before the court. It is wrong to suggest that I am deposing falsely in this regard.

At this stage, the attention of the witness is drawn towards the accused persons, who are present in court today.

I do not know the persons shown to me. It is wrong to suggest that I am deliberately not identifying the accused person as I have been won over by the accused persons. It is wrong to suggest that I am deposing falsely.”

He was not cross examined by Ld. Counsel for the accused despite opportunity being granted.

PW3 is SI Dharamvir Singh. He deposed that on 21.01.2020, he was on Emergency Duty and DD No.31 was marked to him for inquiry. Thereafter, he along with Ct.Akashdeep reached at the spot i.e. Alipur Pusta, Qadi Pur, Delhi, where he met the complainant namely Karan and one another person namely Gulshan. One D-Van was also there. Karan told him that two boys committed robbery of Rs.42,000/-

from him by showing knife to him. He further deposed that he recorded the statement of Karan in detail and prepared rukka Ex.PW3/A. He handed over the rukka to Ct.Akashdeep to get the case registered. After sometime, SI Ayush reached at the spot as further investigation was marked to him and he left the spot thereafter.

He was duly cross examined by Ld. Counsel for the accused.

PW4 is SI Ayush Bajaj Rajesh Kumar. He deposed that on 21.01.2020, after registration of the FIR, further investigation was assigned to him. He perused the copy of the FIR. He along with Ct.Akashdeep reached at place of incident i.e. at T Point Kadipur, Alipur Pusta Road, where complainant Karan Singh along with his partner met them. He prepared site plan at the instance of complainant Ex.PW2/B. He made efforts to trace the accused persons but on that day, they could not be traced.

He further deposed that during investigation, at the instance of complainant, the sketch of the assailant was got prepared at Kamla Market. He further deposed that on 06.02.2020, he received information from HC Parmod, IO of case FIR No. 85/2020, U/s 25 Arms Act, PS Swaroop Nagar that accused Shakir was arrested in FIR No. 85/2020 and he disclosed his involvement in the present FIR. After that, he made arrest of accused Shakir in the present FIR vide arrest memo Ex.PW4/A, recorded his disclosure statement vide memo Ex.PW4/B. He

further deposed that accused Shabir @ Shakir led them to his house i.e. H.No. FC-538, Gali No.9/5, Fauji Colony, Mukund Pur, Delhi, where he got recovered Rs.4300/- and one delivery chart of HP Company from underneath the mattress. He further deposed that he kept Rs.4300/- and delivery chart in a transparent plastic box, duly secured with doctor tape and duly sealed with the seal of AB and sealed pullanda was taken into possession vide memo Ex.PW4/C. He further deposed that accused disclosed that he along with his accomplice Amardeep had committed the robbery from the complainant. Accused pointed out the place of nonoccurrence vide pointing out memo Ex.PW4/X. Thereafter, they came back to police station, case property was deposited in maalkhana and accused was produced before Ld. MM after getting his medical examination.

He further deposed that during investigation, he came to know that accused Amardeep was already arrested in case FIR No. 57/2020, PS Bhalswa Dairy. He moved an appropriate application for production of the accused. Accordingly, accused Amardeep was produced before Ld. MM. After taking permission from Ld. MM, he was formally arrested vide arrest memo Ex.PW4/D. His disclosure statement was also recorded vide memo Ex.PW4/E. He further deposed that he obtained one day police custody remand of accused. Accused led them to his house i.e. H. No. A-228, Gali No.11, Mukundpur, Bhalswa Dairy, Delhi and got recovered one motorcycle bearing no. HR26 CM 6475 which was stationed outside his house by saying that

he along with his associate Shakir had committed robbery of Rs.42,000/- from the complainant of the present case on the aforesaid motorcycle. The motorcycle was seized vide memo Ex.PW4/F. He further deposed that accused also led them to the place of incident and got recovered one iron blade (lohe ke pati) from the bushes. The same was kept in a plastic box, duly secured with doctor tape and sealed with the seal of AB. Sealed pullanda was taken into possession vide seizure memo Ex.PW4/G. He further deposed that accused also pointed out the place of occurrence vide memo Ex.PW/H. He further deposed that they came back to police station and accused was kept in lock up after getting his medical examination.

He further deposed that on the next day, he was produced before Ld. MM. During investigation, he moved appropriate application before Ld. MM for getting TIP of both the accused persons through complainant but the accused persons refused for the same. He recorded statement of witnesses and after completion of investigation, he prepared charge sheet and filed the same in court through SHO.

He identified the 08 notes of Rs.500/- and 03 notes of Rs.100/-, wrapped in white paper by saying that the same were recovered from accused Shakir as Ex. P1. He also identified one wooden broken handle knife by saying that the said knife was recovered from the possession of the accused Amardeep, as Ex. P2.

He was duly cross examined by Ld. Counsel for

accused.

PW5 is SI Akashdeep. He deposed that on 21.01.2020, DD No.31A was marked to the IO ASI Dharambir for inquiry and he along with IO went to T Point, Alipur Road, Kadi Pur, Swaroop Nagar, Delhi. There they met Karan Singh and Gulshan at the spot along with their D-Van bearing registration No. DL1LF-5496. They told the IO that two boys came on the motorcycle and robbed Rs.42,000/- on the point of knife from them and 125CC was written on the petrol tank of the bike. He further deposed that IO recorded the statement of Karan Singh and prepared rukka, handed over the same to him for registration of the FIR. He went to PS and after the registration of the FIR, he handed over the copy of the FIR along with original rukka to IO SI Ayush Bajaj, to whom further investigation was marked. Thereafter, he along with SI Ayush came back to the spot. IO SI Ayush prepared the site plan at the instance of Karan Singh.

He was duly cross examined by Ld. Counsel for accused.

Documents produced on behalf of prosecution

Ex.PW2/A	Complaint lodged by the complainant
Ex.PW2/B	Site Plan
Ex.PW3/A	Rukka
Ex.PW4/A	Arrest memo of accused Shakir
Ex.PW4/B	Disclosure statement of accused Shakir
Ex.PW4/C	Seizure memo of Rs.4300/- and one delivery chart recovered at the instance

	of accused Shakir from his house.
Ex.PW4/X	Pointing out memo of the place of occurrence at instance of accused Shakir
Ex.PW4/D	Arrest memo accused Amardeep
Ex.PW4/E	Disclosure statement of accused Amardeep
Ex.PW4/F	The seizure memo of the motorcycle
Ex.PW4/G	Seizure memo of the weapon of offence i.e. iron blade(lohe ke pati) recovered at the instance of accused Amardeep
PW4/H	Pointing out memo of the place of occurrence at instance of accused Amardeep

List of Material Objects

Ex.P1	08 notes of Rs.500/-, 03 notes of 100/- wrapped in white paper, recovered at instance of accused Shakir
Ex.P2	One wooden broken handle knife recovered from the possession of accused Amardeep

4. Vide order dated 28.03.2026, the prosecution evidence stands closed as main prosecution witness has not supported the case of the prosecution and evidence of remaining witnesses was formal.

STATEMENT OF ACCUSED UNDER SECTION 313 Cr.P.C

5. After closure of PE, the statement of the accused Shiv Karan was recorded u/s 313 Cr.P.C. on 05.05.2026 wherein

he denied all the evidence put to him and stated that he has been falsely implicated by the police officials, so that the present case may be worked out by the concerned IO. Accused opted not to lead any defence evidence.

6. Thereafter, matter was fixed for final arguments.

7. I have heard Dr. Sarita Rani, Ld. Addl. PP for the State and Sh.Pankaj Kumar Dubey, ld. Counsel for both accused persons.

ARGUMENTS ADVANCED BY LD. ADDL. PP FOR THE STATE

8. It was argued by **Ld. Addl. PP for State** that the allegations levelled against the accused persons are of serious nature and the prosecution has proved its case vide the testimony of police witnesses.

It was further argued that all the police officials have clearly proved the chain and the manner of investigation and merely because the witnesses are police officials their testimony cannot be disbelieved.

ARGUMENTS ADVANCED BY LD. COUNSEL FOR ACCUSED.

9. On the other hand, Ld. Counsel for accused persons has argued that accused persons have been falsely implicated. It

was further argued that prime prosecution witness have not supported the case of the prosecution and denied all the allegations levelled against them. It was further argued that no recovery has been planted upon the accused persons. It was further argued that there is no incriminating evidence against the accused persons and the prosecution has failed to prove the case beyond reasonable doubt. Accordingly, accused persons deserve acquittal.

10. I have heard the arguments at length and perused the entire record.

FINDINGS

11. Both accused persons had been charged for the offence punishable under Section 392/34 IPC. In addition, accused Shakir has also been charged for the offence punishable under Section 397/411 IPC and accused Amardeep has also been charged for the offence punishable under Section 397 IPC.

12. The relevant Sections are reproduced as under :

SECTION 392 IPC

“Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years”.

SECTION 397 IPC

“Robbery, or dacoity, with attempt to cause death or grievous hurt.—If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.”

SECTION 411 IPC

“Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

PRESUMPTION OF INNOCENCE

13. It is a settled law of criminal jurisprudence that a person is believed to be innocent till the guilt is proved against him. This principle is called **The Presumption of Innocence**. In another words, the accused is entitled to take advantage of reasonable doubt in respect of his crime. The principle finds its genesis in the *Declaration of Human Rights* under Article 11 Section 1 incorporated by the United Nations in 1948. It is also mentioned in the **European Convention for the Protection of Human Rights** in Article 6 Section 2 and United Nations International Covenant on Civil and Political Rights under Article 14, Section 2.

Presumption of Innocence is a re-statement of the

rule that in criminal matters the prosecution has the burden of proving guilt of the accused in order to be convicted of the crime of which he is charged.

In Chandrashekhar Vs. State of Himachal Pradesh decided on 06.07.2018 relying on judgment of Data Ram Singh Vs. State of UP passed by the Hon'ble Supreme Court on 06.02.2018, it was held that:

“the freedom of an individual is utmost important and cannot be curtailed specially when guilt if any, is yet to be proved. It is settled law that till such time guilt of a person is proved, he is deemed to be innocent..... A fundamental postulate of criminal juris prudence is a presumption of innocence meaning thereby that a person is believed to be innocent until found guilty.....”

Thus, the inference which is culled out from the above is that it is for the prosecution to prove the guilt of the accused beyond reasonable doubt.

14. In this backdrop, I proceed to delve upon the evidence adduced on behalf of the prosecution.

15. The prosecution has heavily relied upon the testimony of **PW1 Gulshan**, who is eye witness and **PW2 Karan Singh**, who is complainant in the case. However, both the said witnesses have not supported the case of the prosecution.

Despite a lengthy cross examination by the Ld. Additional PP for the State, nothing incriminating could be

culled out as the said witnesses resiled from their earlier statement. They completely turned hostile on the point of identification of accused persons, though they admitted the incident but failed to identify the accused persons in the court. The relevant portion of their evidence vide which they were cross examined by Ld. Addl. PP for the State, is as under:
stating

PW1 Gulshan

“At this stage, the attention of the witness is drawn towards the accused persons, who are present in the court today.

I do not know the persons shown to me.”

PW1 Karan Singh

“At this stage, the attention of the witness is drawn towards the accused persons, who are present in the court today.

I do not know the persons shown to me.”

There is settled law as stated in **Abdul Sayad Vs. State of M.P. 2010 AIR SCW 5701** and also in **State of U.P. Vs. Naresh and Ors. (2011) 4SCC 324** *the testimony of injured witness as his own relevancy and efficacy as he has sustained injuries at the time of incident and it is unlikely that he would spare the actual assailants in order to falsely implicate someone else*. However, in the present case the complainant PW2 Karan Singh himself who was the prime prosecution witness has denied that it was the accused persons who had robbed him and has not supported the case of the prosecution. Same is version of PW1 Gulshan, who was along with complainant at the time of alleged incident and not supported the case of the prosecution.

16. In the case in hand, the other witnesses were police officials who deposed regarding the manner of investigation but the material/star prosecution witness i.e. PW1 Gulshan and PW2 Karan Singh themselves have not supported the case of the prosecution and categorically denied that the accused persons robbed the complainant and there are material contradictions in his testimony. Even, the wooden broken handle knife Ex.P2 was not put to the complainant PW2 Karan Singh, during evidence. There is no digital/electrical evidence or any other incriminating evidence found against the accused persons. Hence, no offence under section 392/397/34 IPC is made out against accused persons.

17. The accused Shakir was also charged for the offence under section 411 IPC, as cash amount of Rs.4300/- (08 notes of Rs.500/- and 03 notes of Rs.100, wrapped in white paper) Ex.P1 (colly) was recovered from his possession.

Coming to the recovery of cash amount of Rs.4300/- (08 notes of Rs.500/- and 03 notes of Rs.100, wrapped in white paper) Ex.P1 (colly), which was seized vide seizure memo Ex.PW4/C, does not bear signature of any independent witness.

At this stage reliance is placed on the following landmark judgments by the Hon'ble Superior Courts.

In the landmark judgment of **State (NCT of Delhi) Vs. Sunil 2001 SCC, (Cri) 248**, the Hon'ble Supreme Court held that:

“when discovery is made pursuant to any facts deposed by the accused, the discovery memo prepared by the IO is necessarily attested by the independent witnesses but if no witness is present, it is difficult to lay down as a proposition that the recovery must be tainted or that or unreliable. But in such a situation, the court has to consider the report of the IO on its own merits”.

In the case of Naveen kumar Verma Vs. State (Govt. of NCT of Delhi) decided by Hon'ble High Court of Delhi on 03.07.2013 relying on the landmark judgment of Mohd. Jabbar Vs. State decision 21.05.2010 CrI. A. 1022/18, it has been reiterated that:

“The courts have to be cautioned and to vigilant against the non practice of the police to plant ordinary objects on the accused persons to prove access by the accused to the place where the crime was allegedly committed”.

18. Further, the currency notes Ex.P1 (colly) were not put to the complainant PW2 Karan Singh, during evidence. Even, there is no mark on the currency notes which proves that the same belong to the complainant.

19. In view of the above, I have no hesitation in saying that prosecution has failed to prove the offence under Section 411 IPC against accused Shakir beyond reasonable doubt.

CONCLUSION

20. The prime witnesses of the prosecution case namely

eye witness/PW1 Gulshan and PW2 Karan Singh who is the victim/complainant have not supported the case of the prosecution on the point of identification of the accused persons, recovery of the articles and there is no technical evidence on record in the form of any CCTV Footage.

Considering the overall evidence on record, especially the testimony of complainant Karan Singh Manoj Kumar Sharma who was examined as PW-2 and eye witness Gulshan, who was examined as PW1, I have no hesitation in holding that there is no evidence on record to connect accused persons to the commission of the reported offence of robbery. Accordingly, accused Shakir and Amardeep Singh are acquitted of the offence under Section 392/397/34 IPC and accused Shakir is also acquitted under Section 411 IPC, on account of insufficiency of evidence.

21. File be consigned to the Record Room, after due compliance.

**Dictated and announced
in the open Court on 19.05.2026
(running into 19 pages)**

**(VANDANA)
Addl. Session Judge-02
(North), Rohini Courts/Delhi**