

**IN THE COURT OF MS. SHEETAL CHAUDHARY PRADHAN
: ADDITIONAL SESSION JUDGE-02 : SOUTH-EAST:
SAKET COURTS : NEW DELHI**

State Vs Amit Rawat & Ors.
Session Case No.:151/2023
FIR No. : 16/2022
U/s : 392/397/411/34 IPC
PS : Jaitpur

Brief Details Of The Case

FIR Number	:	16/2022
Date of Institution	:	11.03.2022
Offence complained of	:	U/s 394/397/411/34 IPC
Date of Offence	:	05.01.2022
Name of the complainant	:	Sh. Ranjeet S/o Sh. Bhikari Sharma R/o H.No.C-222, Main Market Badarpur, New Delhi
Name of the accused	:	1. Amit Rawat S/o Sh.Mohan Singh R/o House No.L-383, Gali No.16, Saurav Vihar, Jaitpur, Delhi 2. Keshav Gupta S/o Sh. Raj Kumar Gupta R/o House No.M-68, Saurav Vihar, Jaitpur, Delhi

Plea of the accused	:	Pleaded not guilty
Judgment Reserved on	:	04.07.2026
Date of Judgment	:	16.07.2026
Decision	:	Both accused persons stands convicted for the offences u/s 392/397/411/34 IPC.

J U D G M E N T

1. Accused Amit Rawat and Keshav Gupta @ Dhinchu faced trial for offences, punishable U/s 392/397/411/34 IPC.
2. Brief facts as per prosecution story, on 05.01.2022 during emergency duty, upon receipt of PCR call vide DD No.28A stating, "*Jaitpur Gadda Colony, Caller Ne Bataya Ki Who Tempo Se Jaitpur Mod Ja Rhe The Raste Mei 2 Log Tempo Mein Baithe Jo Around 25-30 Yrs K Lag Rhe The Unhone Tempo Mein Baithi Sawari Ko Chaku Dikha Kr Unka Mobile Phone Paise Sb Chhin Liye H.. Or Raste Mei Utar Gye*". Thereafter, IO along with Ct. Pankaj reached at the spot where the victim/passenger Ranjeet who was looted upon showing the knife in Gramin Seva was met and upon inquiry, the victim gave his statement which is as follows:

" मैं पता उपरोक्त पर सपरिवार किराये के मकान में रहता हूं और स्थायी रूप से गाँब-कसियाड़ी, थाना-इवरिया, जिला-गया, बिहार का रहने वाला हूँ तथा मेरे परिवार में मेरी बीवी, दो लड़की तथा एक लड़का है। मैं Carpenter का काम करता हूँ। आज दिनांक 05/01/2022 को सुबह समय करीब 10:15 बजे मैं काम के लिए बदरपुर Auto Stand से खड्डा कालोनी के लिए ग्रामीण सेवा में बैठा था जो मेरे साथ टेम्पो में 4 सवारी और थी जिसमें एक महिला थी। जो उसके बाद मीठापुर चौक से एक और सवारी बैठी थी और फिर लगभग समय करीब 10.30 AM पर जब हम लोहिया पुल के पास पहुँचे तो ग्रामीण सेवा/टेम्पो में 2 ओर आदमी बैठ गये जो लोहिया पुल पुलिस बुथ Cross होते ही उनमें से एक लम्बे बाल वाले लड़के ने एक कवर से चाकू

निकाला और टेम्पो वाले को बोला कि जब तक ना बोलू रोक मत देना और सभी सवारियों से बोला कि जो कुछ भी है सबकुछ दे दो और तभी मुझे गाली देकर थप्पड़ मारा और चाकू दिखाकर बोला सभी जल्दी से Mobile व पैसे निकाल दो जैसे ही मैंने अपना Mobile निकाला तो एकदम से छीन लिया जो मेरा Mobile Redmi Note 7 black Colour था तभी दूसरे लड़के ने मेरी जेब से मेरा पर्स निकाल लिया जिसमें करीब 2500 रुपये थे। जो दोनो लड़के ने एक-एक करके दुसरी सवारियों से भी लूटपाट की तथा पैसे व पर्स चाकू दिखाकर लूट लिये। जो फिर जब टेम्पो डिस्पेंसरी, नाला रोड के पास पहुंची तो टेम्पो रुकवाकर दोनो लड़के उससे उतरकर अन्दर कालोनी में चले गये। जो दोनो मैं एक लड़का लम्बे कद का तथा लम्बे बाल वाला था तथा दूसरा लड़का थोड़ा पतला व लाल Jacket पहने हुए था। जो दोनो लड़को को मैं सामने आने पर पहचान सकता है। उन दोनो लड़को ने चाकू दिखाकर हमें डराकर मुझसे तथा बाकी सवारियों से लूटपाट की है। कानूनी कार्यवाही की जाये।"

3. Upon inquiry, three more passengers of Gramin Seva were also looted while showing knife and they were Arjit Dubey, Madan Ram and Ratan Singh. Subsequently, FIR was registered. At the instance of complainant, site-plan was prepared. During the course of investigation, the IO checked the CCTV cameras around the place of the incident but no CCTV footage was found. Thereafter, IO formed a team consisting of Ct. Dinesh and Ct. Naveen for the search of accused persons and went along with the complainant for the search of accused persons.
4. During the course of investigation, on 05.01.2022 (same day) at around 07:30 p.m., while searching, they reached near Peer Baba, Jaitpur and saw some boys standing on the side of the road and the complainant Ranjit pointed towards a fat boy with long hair and told that this is the same boy who had robbed him and the other passengers of their mobile and money and thereafter, accused Amit Rawat was apprehended and interrogated. On his cursory search, a large knife like knife was found from the bottom right side of his pants and 800 rupees and 2 mobile phones (1) Redmi 9 Blue Colour (2) Redmi Note 7 Black Colour were found from the

pocket of the pants which the complainant on seeing one of the recovered mobile phones, identified that the phone belonged to him. Subsequently, accused Amit Rawat disclosed the name of co-accused as Keshav Gupta. IO requested 4-5 passersby to join the investigation but all of them left the spot without disclosing their names and addresses, citing their legitimate compulsions, to whom notices could not be given due to lack of time. Thereafter, accused Amit Rawat was arrested.

5. Thereafter, IO along with the police staff and complainant Ranjit reached the house of accused Keshav and he was arrested, on the indication of the accused Amit Rawat, whom the complainant identified as the second accused among the robbers, and a thorough search of the accused Keshav Gupta was carried out, from the looted mobile phones, 2 mobile phones (1) Samsung Duos black colour (2) Vivo touchscreen black and blue colour and Rs.643/- were recovered from the accused Keshav Gupta.
6. During the course of investigation, on 05.01.2022, accused Amit Rawat and accused Keshav Gupta confessed regarding commission of another incident and on verification of the case-property i.e. Redmi 9 Blue Colour mobile was found to be stolen in FIR No.15/22 u/s 397/34 IPC. PS-Jaitpur. Further, IO sent the mobile phones of both the accused for obtaining CDR and on investigation, it was found that on 05.01.2022, at the time of the incident, the location of both was found near the incident area, Hari Nagar Extension, Jaitpur and the location of accused Amit Rawat's Mobile No. 8851652480 was found near Hari Nagar Extension, Jaitpur (spot of incident) on 05.01.2022 at 11:32:11 a.m. and the location of accused Keshav Gupta's Mobile No.8800107908 was found to be Tajpur Village, Badarpur, New Delhi, at 11:31:16 a.m. on 05.01.2022, which

suggests that the locations of both accused were simultaneously even nearly an hour after the incident.

7. After completion of investigation, chargesheet was filed. Arguments on charge were heard and based on the contents of chargesheet, charge was framed against both accused for offence under section 392/397/411/34 IPC and matter was then fixed for prosecution evidence.

PROSECUTION EVIDENCE

8. Prosecution has examined eight (8) witnesses in support of its case: -

Serial Number	Name of the Witness	Crux of deposition
PW-1	Sh. Ranjeet (victim)	To prove the material essentials of the offences alleged. He tendered the following documents in evidence :- a) His complaint Ex.PW1/A. b) Site plan Ex.PW1/B. c) Arrest memo of accused Amit Rawat Ex.PW1/C. d) Arrest memo of accused Keshav Gupta Ex.PW1/D. e) Ownership proof of his mobile phone Ex.PW1/E. f) Superdarinama as Ex.PW1/F and Photographs of mobile phone as Ex.P1 and stolen mobile phone Redimi Note 7 as Ex.P2. Witness deposed the manner in which the

		incident occurred and was duly cross examined.
PW-2	Sh. Rattan Singh (Eye-witness/victim)	To prove the material essentials of the offences alleged. Witness deposed the manner in which the incident occurred.
PW-3	Sh. Raju (driver of the Gramin Seva)	To prove the material essentials of the offences alleged. Witness deposed the manner in which the incident occurred.
PW-4	Sh. Madan Ram (Eye-witness and victim)	To prove the material essentials of the offences alleged. Witness deposed the manner in which the incident occurred. This witness has been duly cross-examined.
PW-5	Sh. Arjit Dubey (Eye-witness and victim)	To prove the material essentials of the offences alleged. Witness deposed the manner in which the incident occurred. This witness has been duly cross-examined.
PW-6	HC Dinesh Kumar	Witness joined investigation with IO and deposed regarding the different stages of investigation conducted and prove the following documents: a) Seizure memo of knife Ex.PW6/A. b) Seizure memos of two mobile phones i.e. one Redme9 and REdme7 and

		Rs.800/- Ex.PW6/B, Ex.PW6/C, Ex.PW6/D. c) Personal search memo of accused Amit Rawat Ex.PW6/E. d) Disclosure statement of accused Amit Rawat Ex.PW6/F. e) Seizure memos of two mobile phones i.e. Samsung Dus and Vivo touch screen and Rs.643/- Ex.PW6/G, Ex.PW6/H and Ex.PW6/I. f) Personal search memo of accused Keshav Gupta @ Dechu Ex.PW6/J. g) Disclosure statement of accused Keshav Gupta Ex.PW6/K. This witness has been duly cross-examined.
PW-7	HC Pankaj Kumar	Witness joined investigation with IO and deposed regarding the different stages of investigation conducted. This witness has been duly cross-examined.
PW-8	SI Satyapreet (Investigating officer)	Witness deposed regarding the different stages of investigation conducted and prove the following documents: a) Rukka as Ex.PW8/A, b) Sketch of the knife as Ex.PW8/B This witness has been duly cross-examined

9. Vide joint statement under Section 294 Cr.P.C. recorded on 09.01.2025 and 17.04.2026, the accused persons have admitted the genuineness of the following documents: -

Documents Admitted By Both Accused – U/Sec. 294 CrPC

S. No.	Documents	Admitted
1.	FIR No.16/2022 recorded by ASI Satender Singh (without content)	Ex.A
2.	DD No.28A dated 05.01.2022 recorded by HC Munshi Ram (without content)	Ex.A-1
3.	CDR, CAFF and location chart of mobile no.8851652480 period of 05.01.2022 of accused Amit Rawat alongwith certificate u/s 65 B of Indian Evidence Act	Ex.A2 (Colly)
4.	CDR, CAFF and location chart of mobile no.8800107908 period of 05.01.2022 of accused certificate u/s 65 B of Indian Evidence Act	Ex.A3 (Colly)

10. Prosecution witnesses deposed regarding the offence in the present matter as follows:

11. **PW-1 Sh. Ranjeet has deposed that** on 05.01.2022, he boarded Gramin Seva from Jaitpur Mod for going to Khadda Colony and when he boarded the said Gramin Seva besides him there were three/four commuters sitting in it. He further deposed that he had boarded the said Gramin Seva around 10.20am and on the way, one commuter boarded the Gramin Seva at Meethapur Chowk. He further deposed that before reaching Lohia Pul, the speed of Gramin Seva, slow down due to speed breakers and two boys boarded the same and one of the said boys pushed the commuter, who had boarded the said Gramin Seva at Meethapur Chowk, out of said Gramin Seva and took out one big knife. He further deposed that the boy

threatened every commuter to hand over the articles, which were present with them, to that boy then, the boy who was showing knife, took his mobile forcibly, as he was under threat. **The witness had correctly identified accused Amit Rawat in the Court.** He further deposed that the other boy was searching the other commuters for taking articles from them. **The witness has also correctly identified the accused Keshav.** He further deposed that the accused Amit threatened the driver not to stop Gramin Seva otherwise he would be killed and accused Keshav forcibly took out purse from his pocket. He further deposed that the accused Amit started beating a man who was accompanying a lady in the said Gramin Seva. He further deposed that both the accused persons, snatched personal belongings/articles from other commuters and his purse had Rs.2500/-. **He further deposed that his mobile phone which was snatched by accused Amit was Redimi Note 7 of black colour.** He further deposed that both the accused persons deboarded near Dispensary Nala Road after snatching/robbed the article, thereafter, he reached at Khadda Colony and deboarded there. He went to the house of his friend and he along with his friend were searching the accused nearby area where one passenger met them and he told him that he had called the police at 100 number. They reached at police booth where police officials were present and he along with the driver of the said Gramin Seva reached at the police station where police official recorded his statement Ex.PW1/A, thereafter, he along with his friend and police official reached at the spot and site plan Ex.PW1/B was prepared at police post. He along with police officials were searching the accused in the nearby area and when they reached at about 07.00pm at Peer Baba near Nala road Jaitpur, he saw that accused whose name revealed as Amit was standing there. **He further deposed that on his**

pointing out, police officials apprehended Amit, police conducted his personal search and a big knife was recovered from his possession and two mobile phones were also recovered from him, one of them belonged to him and he identified his mobile phone, thereafter, he along with accused Amit and police officials reached at the police station. He further deposed that the IO took into possession his mobile phone and the accused Keshav was also arrested in this case vide arrest memos Ex.PW1/C & Ex.PW1/D. He further deposed that he had handed over the ownership proof Ex.PW1/E of his mobile phone to the police. It is further deposed by PW1 Sh. Ranjeet that he had taken the above-mentioned phone from the IO vide superdginama Ex.PW1/F and the photograph of the said mobile phone was Ex.P-1. He brought his mobile phone Redme Note7 Ex.P-2. He has correctly identified the knife Ex.P-3 stating that the said knife was used by accused Amit at the time of committing robbery.

12. **During his cross examination on behalf of accused Amit Rawat,** PW1 Ranjit has stated that he worked as a carpenter. He admitted that he boarded Gramin Seva for Jaitpur Mor for going to Khadda Colony and the the said two boys boarded the Gramin Seva from the Lohia Pul, police booth. He admitted that he had not stated to the police that the said boys pushed the commuters who boarded the said Gramin Seva at Lohia Pul. He further stated that it was 10.20 am, when he boarded the Gramin Seva, they were five passengers already sitting in the Gramin Seva. He further stated that he had stated to the police that accused Amit started beating a man who was accompanying a lady in the said Gramin Seva. He further stated that he did not remember the names of the passengers who boarded in the Gramin Seva. He deposed that he had stated to the police that three notes of

Rs.500/- along with other cash, amounting to Rs.2500 was looted from him. He further deposed that he did not give complete details of the notes amounting to Rs.2500/- to police. Further, that he did not call police as he was not having mobile phone. He did not know as to who had called at 100 number to police but around 11.00am, police had reached at the spot near Khadda Colony. Further, that he saw two police officials reached at the spot. He stated that he was not knowing the names of said police officials. He further stated that those police officials had come on bike and he had told to the police that after the incident, he had gone to the house of his friend. He had told to the police that he along with his friend had searched for accused persons in the area near the place of incident. Police had not recorded his statement at the spot and no documents were prepared by the police at the spot. Subsequently, he reached the police station where his statement was recorded. The site plan was prepared in the police station and when he reached at the spot, accused persons were not present there. He did not remember whether any entry in any register was made in police station regarding his visit to the police station and from police station, they went back to the area where incident in question had taken place and search for accused persons till 06.00/06.30PM. Further, that in his presence, accused persons were apprehended by police near Peer Baba, Nala Road and police had searched accused persons and found knife and other articles from them. From there, they went to police station and from police station, around 08.30 pm, he left for his home and around 03.00-04.00 pm his friend had left him on that day. Around 3-4 police officials accompanied him to the place from where accused persons were apprehended. Further that police officials had not given their personal search to him before apprehending accused persons and at the spot, where accused persons were

apprehended, police had not taken his signatures on any paper. He voluntarily stated that his signatures were taken by police on papers, in police station and the police had not prepared any sketch of knife, recovered from accused persons, at the spot where they were apprehended. He did not remember whether any memo was prepared by police in his presence. He admitted that place from where accused persons were arrested was a crowded place and after arrest of accused persons they had reached police station at around 07.30PM. He further deposed that in his presence, accused persons had not given any disclosure statement to police. He went to home at about 07.30PM and police official called him the next day. He further deposed that no identity mark was made by police on the knife, they have recovered from the accused persons. He did not remember whether knife recovered from accused persons was measured by police and whether the police had prepared any site plan with regard to the place from where they were arrested or not. He further deposed that no fingerprints were collected by police from the place from where they were arrested. He did not know the names of police officials, who had accompanied him to the place from where accused persons were apprehended. He did not know about the articles, recovered from the accused persons, when they were apprehended by the police.

13. **During his cross examination on behalf of accused Keshav Gupta,** PW1 Ranjit has deposed that the incident in question had taken place around 10.30am. During examination, court questions were put and same is mentioned below:

“Court Q:1 Give details of the place and circumstances, regarding arrest of accused Amit Rawat ?

Answer: Accused Amit Rawat was standing in Gali and was talking to 2-3 persons. I had told police officials about accused Amit Rawat by

pointing out towards him from a distance of 25 feet. Police officials were in uniform. Accused tried to flee away from the spot on seeing police. Police arrested accused Amit after chasing him for about 15 steps. Police did not ask the persons from whom accused Amit was talking. Those persons left the spot ordinarily.

Court Q:2 Have you deposed in any other criminal matter besides this matter?

Answer: No.

Court Q:3 Apart from present case, whether you have filed any other complaint in concerned police station?

Answer: No.

Court Q:4 What is the distance between your house and the police station where you had lodged your complaint?

Answer: 5 kilometers.

Court Q:5 Do you have any relative in police?

Answer: No.

Court Q:6 Whether there was any residences of people, near the place where accused Amit was apprehended?

Answer: Yes.

Court Q:7 Did police ask any resident to be a witness to the arrest of accused Amit Rawat?

Answer: I do not remember.

Court Q:8 Do you remember the colour of clothes of accused Amit when he was apprehended?

Answer: Accused Amit was wearing white colour sweater which was not completely white. I do not remember the colour of his pant. He was wearing shoes.

Court Q:9 What do you do for earning your livelihood?

Answer: I am the carpenter.

Court Q:10 Where did you see accused Keshav Gupta for the first time after the incident in question?

Answer: In police station. Again said, I did not see accused Keshav Gupta in police station, rather seen him in the court after the incident in question.

Court Q:11 When you reached back at police station after getting accused Amit apprehended, whether accused Keshav was present in police station?

Answer: No.”

14. **PW-2 Rattan Singh has deposed that** he is driver by profession and on 05.01.2022 at about 10.30am he sat in Magic car at Meethapur chowk. He further deposed that two boys, boarded said car and in the said car, besides him, four/five persons were sitting when the said two boys boarded

it. Further that those boys threatened all the passengers to hand over, whatever they all had and one of them was carrying and flashing knife for threatening them. **Further that he gave his Vivo mobile of Blue and black colour having SIM No.8743065637**, to those boys and those boys looted other passengers in the said car and after some distance left the said car, thereafter they fled away and at the time of incident, **both the said boys were having muffled face but he had not seen the faces of those boys.**

15. **PW3 Sh. Raju has deposed that** he was a driver by profession. He did not remember the exact date of the incident but the incident took place during winter season and on the day of incident, he was driving Gramin Seva and he usually ply the Gramin Seva from Badarpur to Khadda Colony and vice versa and on the day of incident, he was going from Badarpur to Khadda Colony. **He further deposed that at about 09.00/09.30am, five/six persons/passengers boarded from Badarpur and when he took turn from Lohiya pul towards Khadda Colony and at that time, two persons boarded in his said Gramin Seva.** That at that time, the speed of the said vehicle was slow, thereafter, **both the said persons started slapping passengers who were in the Gramin seva, thereafter, both the said persons put knife on the passengers and one of them, put knife on his lower back and threatened him not to stop the Gramin Seva (Gaadi nahi rukni chahiye).** Further that, they also started abusing him and both the said persons had snatched cash and other articles from the passengers. The witness has pointed out towards the accused Keshav Gupta and correctly identify him and stated that **accused put knife on his lower back** and the witness has pointed out towards **accused Amit Rawat and correctly identified him and stated that accused had put knife on the passengers.** PW3 further deposed that Jali/iron

net was fixed on the backside of his seat and they got stopped the vehicles by threatening him by putting knife on him and he stopped the vehicle and thereafter, both of the accused persons ran away from the spot. It is further deposed by PW3 that some passengers called at 100 number and he also called police, police reached there and inquired from him.

16. Upon putting leading question from the witness by Ld.Addl. P.P. for the State, he admitted that the date of incident was 05.01.2022.

17. **During cross examination on behalf of accused Keshav Gupta, PW3** Raju stated that he did not remember the date of the incident and the registration number of his Gramin Seva was DL2W5414. Further, he saw the accused Keshav Gupta firstly in his Gramin Seva, thereafter, he saw him in police station and the police had recorded his statement in police station. He had called the police on 100 number and they also inquired from him about the incident. Further, he had told the police in his statement that thereafter, both the said persons put knife on the passengers. He further deposed that one of them, put knife on his lower back and threatened him not to stop the Gramin Seva (Gaadi nahi rukni chahiye). They also started abusing him. Both the said persons had snatched cash and other articles from the passengers. (Confronted with the statement Ex.PW3/DA where it was not so recorded). Further, that he has told the police in his statement that *“They got stopped the vehicles by threatening me by putting knife on me. I stopped the vehicle and thereafter, both of the accused persons ran away from the spot.”* (same was confronted with the statement Ex.PW3/DA where it was not so recorded). He voluntarily deposed that the front mirror was also fixed on his Gramin Seva and he saw accused persons from that

mirror) and he had told to the police that accused Keshav Gupta had put knife on his lower back. (same was confronted with the statement Ex.PW3/DA where it was not so recorded). He admitted that nothing was recovered in his presence.

18. **Accused Amit Rawat has adopted the cross examination conducted on behalf of accused Keshav Gupta.**

19. **PW4 Madan Ram has deposed that on 05.01.2022, at about 10.15 a.m., he was going towards Khadda Colony from Badarpur Border by Gramin Sewa and he had taken the Gramin Sewa at Badarpur Border and in the said Gramin Sewa Tempo, four passengers including one lady passenger were present. It is further deposed by PW4 that besides them, one driver was also driving the Gramin Sewa and while traveling, when they reached near Mithapur Chowk, one passenger also boarded the Gramin Sewa and when they reached at Lohia Pull, two persons also boarded the Gramin Sewa. It is further deposed by PW4 that when they crossed the police booth, both persons boarded at Lohia Pull and both of them, had taken their long knives and after showing knives they started robbing the passengers of the Gramin Sewa. Further, he was sitting at the back seat of the said Gramin Sewa when said robbery took place. He had thrown his mobile phone on the backside of Gramin Sewa behind his seat. That both accused persons robbed the mobile phone and money from other passengers of Gramin Sewa and they also showed knife to him and asked him to hand over money. He had handed over money Rs.1400/- to the accused persons when they showed the knife to him, they stopped Gramin Sewa near dispensary and got down from the Gramin Sewa and ran away**

from the spot. PW4 had correctly identified both the accused persons in the Court. During his examination, witness pointed out towards accused Amit and deposed that he was the same person who was having long hairs and had shown knife to him. Witness further deposed that accused persons had robbed Rs.1400/- from him. He pointed out accused Keshav Gupta who had robbed other passengers of the Gramin Sewa. PW4 further deposed that he was inquired by the police and his statement was recorded and the cash amount which was robbed from him, included two notes of Rs.500/- and two notes of Rs. 200/- denomination and he was robbed by accused persons with a total Rs.1400/-.

20. During his cross examination conducted on behalf of accused Keshav, attention of the witness was drawn towards his statement u/s 161 Cr.PC Ex. PW4/A and asked as to whether he had mentioned in the said statement that he can identify accused persons if shown to him to which witness admitted that he had not stated so to the police. He further deposed that he had mentioned the fact that one of the assailant was having long hairs. He further deposed that he was not knowing the names of accused persons at the time of said incident and one police official had told him about the name of accused Keshav Gupta. He stated that he does not remember the name of said police officials as well as the date, when he was so told by the police official about the name of accused Keshav Gupta and after the said incident, he had never seen the accused persons, till date. He further stated that he found his mobile phone in the Gramin Sewa after incident in question had taken place and he only remembered that one of the accused person was wearing red colour shirt but he did not remember as to what colour of clothes were being worn by other accused. He further

deposed that he was told by police on the date of incident only, that they had arrested two accused persons and he was roaming around in the area with one police official, after incident in question, for searching accused persons and after about one and half hours, said police official received telephonic call and he was informed that accused persons in question were arrested and were present in the police station. He then went to police station and saw both accused persons and he identified both accused persons in Police Station and after that, he never saw accused persons till today. He further deposed that no passenger in the said Gramin Sewa, shouted when accused persons threatened them to give their belongings, to them by showing knives and within 15 minutes, incident in question had taken place and after incident in question, when accused persons fled away, he had taken his phone from backside of Gramin Sewa and called police at 112. Police came there within 10-15 minutes. PW4 further deposed that there were four police officials who had reached at the spot and he received call from police official, during pendency of present case, informing him about the date of hearing in this case.

21. **During his cross examination on behalf of accused Amit**, he deposed that approximately, by 10.30 am, on the day of incident in question, the said incident had taken place and the case of incident was Lohia Pull and there were public persons at the place of incident. He voluntarily stated that it was raining on that day and in his presence, police had recorded statements of one or two public persons. He further deposed that he did not meet any police official, at the place where incident in question had taken place prior to his calling police at 112 and for about 15 minutes, he

remained at the spot, with the police.

22. **PW5 Arjit Dubey has deposed that** on 05.01.2021, he was having night duty and he was working as security guard at Wine Shop, DDA Flat, Tuglakabad, Delhi and at around morning time when his duty hours were over and at about 10 am in the morning when he reached near Badarpur and boarded Gramin Sewa going to Khadda Colony. In the Gramin Sewa, apart from driver four more passengers were sitting and one passenger lady boarded the Gramin Sewa auto from Methapur Chowk and when the Gramin Sewa cross Lohia Pull, two more passengers Boarded the gramin sewa and the moment lohia pull was crossed, **he suddenly saw that a scuffle had taken place among the passengers by the two persons who had boarded the Gramin Sewa from Lohia Pull.** He further deposed that at that time, he was sitting in front with the driver and **he saw that the aforesaid two persons who had boarded Gramin Sewa from Lohia pull were hitting the passengers and were looting money and mobile phone from them and were having knife in their hands, thereafter, the said persons made Gramin Sewa Auto to be stopped and after showing knife to him also asked him to give the money in his possession and his mobile phone, thereafter, they robbed him of his mobile phone of make Samsung (keypad mobile phone) of black color and Rs.500/- note from him.** One of the person was tall and well built and the other person was slightly shorter in height then the other, thereafter, the said two persons ran away from the spot. Later, the said persons were apprehended by the police and he accompanied the police officers during that time, thereafter, both accused persons were apprehended and he identified them. **During his examination, witness has pointed out towards both the accused persons, present in the Court and has correctly identified**

them. During the examination of PW5 Arjit Dubey, the Court made observation that the accused Amit Rawat present in the Court is stated to be the accused who was tall and well built and accused Keshav Gupta was stated to be other accused who was small built accompanying accused Amit Rawat at the time of offence. He correctly the mobile phone i.e. Samsung DUOS Ex.P-4 and stated that the same was belong to him.

23. **During his cross examination on behalf of accused Keshav Gupta @ Denchu,** PW5 has deposed that the incident had taken place in the year of 2022 and his statement was recorded by police at around 3-4 pm on the same day of incident in the police station. He admitted that on the alleged date of incident there was COVID-19 time and almost all the people were wearing face mask. He further stated that after PCR call within 10-15 minutes police reached to him and he left the police station at about 5-6 pm and the police did not record his statement when they reached there but police official remained with him till the time accused persons were apprehended and the police did not obtain his signature during the said period. He further deposed that he had told the police that he suddenly saw that a scuffle had taken place among the passenger by two persons and at that time he was sitting in front with driver. PW5 Sh. Arjit Dubey was confronted with statement u/s 161 Cr.P.C. Ex.PW6/DA wherein it was not so recorded. He deposed that at the time of incident, one accused was carrying one pistol and other accused was carrying one knife in his hand. He further deposed that the police official apprehended both the accused persons within 2-3 hours after the incident. He admitted that he had seen the accused persons in the police station and after apprehension of both accused persons, police took them to the police station. He deposed that he

had seen his mobile phone make Samsung and his money i.e. Rs.500/- in the police station which was identified by him. Police had recorded his statement regarding identification of his mobile phone at police station. He further deposed that the police had obtained his signature on paper regarding identification of his mobile phone. He stated that he did not remember whether he again visited at police station after 05.01.2022 or not, however, he voluntarily stated that he was called one or two time by police. He further deposed that the police did not record statement of any public person in his presence.

24. **During his cross examination on behalf of accused Amit Rawat,** PW5 Sh. Arjit Dubey has stated that he did not hand over any proof that on the day of incident, he was working at wine shop. Further, Ld. Counsel for accused Amit Rawat has adopted the cross-examination conducted on behalf of accused Keshav Gupta.

25. **PW6 HC Dinesh Kumar has deposed that on 05.01.2022,** he joined the investigation with IO SI Satyapreet and Ct. Naveen and complainant Ranjeet and at about 06:30 pm they left PS for the search of accused persons in the nearby area and they reached at around 07:30 pm near Peer Baba Nala Road, Jaitpur where 3-4 persons were standing there and complainant pointed out one of accused persons and stated that *joh yeh ladka khada hai lambe balo wala isne humere saath loot ki hai*. It is further deposed by PW6 that when they reached near to them, the said persons was tried to run away from the spot but immediately they apprehended him and his name revealed as accused Amit Rawat who was correctly identified the accused Amit Rawat in the court. He further deposed that he with the help

of Ct. Naveen conducted personal search of accused Amit Rawat and one knife, two mobile phones i.e. one RedMe 9 and RedMe 7 and Rs.800/- recovered from his possession to which IO seized vide seizure memo of knife vide Ex.PW6/A. IO also seized the above mentioned mobile phones and Rs.800/-vide seizure memos Ex.PW6/B, Ex.PW6/C and Ex.PW6/D respectively. It is further deposed by PW6 HC Dinesh Kumar that the IO arrested the accused Amit Rawat vide arrest memo Ex.PW1/D, prepared personal search memo of accused Amit Rawat vide personal search memo Ex.PW6/E and also recorded disclosure statement of accused Amit Rawat Ex.PW6/F. As per disclosure statement, accused Amit Rawat led them to the house of other co-accused namely Keshav Gupta @ Dechu (witness has correctly identified the accused Keshav Gupta @ Dechu in the court) which was situated in M Block Doctor Indu Wali Gali where accused Keshav Gupta was present at his house.

26. It is further deposed by PW6 HC Dinesh Kumar that he with the help of Ct. Naveen conducted search of accused Keshav Gupta@ Dechu and two mobile phones i.e. Samsung Dus and Vivo touch screen and Rs.643/- were recovered from his possession. IO seized the above-mentioned mobile phones and Rs.643/- vide seizure memo Ex.PW6/G, Ex.PW6/H and Ex.PW6/I respectively. IO arrested the accused Keshav Gupta @ Dechu vide arrest memo Ex.PW1/C, prepared personal search memo of accused Keshav Gupta @ Dechu vide personal search memo Ex.PW6/J and also recorded disclosure statement of accused Keshav Gupta @ Dechu Ex.PW6/K, thereafter, they came to the police station alongwith both accused persons alongwith case property and both accused persons were sent to hospital for their medical examination. PW6 has correctly identified

the photographs of mobile phone Ex.P1, mobile phone RedMe Note 7 Ex.P2 and the knife Ex.P-3. He has also correctly identified mobile phone i.e. Samsung DUOS Ex.P-4 and stated that the same was recovered from possession of accused Keshav Gupta. He also identified the case property i.e. Rs.800/- (in the denomination of Rs.500/-, one note of Rs.200/- and one note of Rs.100/-) Ex.P-5 colly. and stated that the same was recovered from possession of accused Amit Rawat and the cash of Rs.643/- (in the denomination of Rs.500/-, one note of Rs.100/-, three note of Rs.10/- and two note of Rs.5/- and one note of Rs.2/- and one note of Rs.1/-) Ex.P-6 (Colly).and stated that the same was recovered from possession of accused Keshav Gupta.

27. **During his cross examination on behalf of accused Keshav Gupta @ Denchu,** he deposed that on 05.01.2022, he joined the investigation at about 6:30 pm till 11:45 pm and the IO recorded his statement at about 12 midnight in the police station. The complainant also remained with them at about 12 midnight and no other public witness was present with them at that time. The house of accused Keshav Gupta was constructed one storey building and other persons also residing. He admitted that it was residential area and the IO asked public persons to join the investigation at the time of personal search of accused Keshav Gupta and seizing of case property but no public person had joined the investigation. IO did not give any notice to them or recorded their residential address. The IO had recorded disclosure statement of accused Keshav Gupta at his residence and at that time, no public person had joined the investigation even at the request of the IO. The mother of accused Keshav was present there but IO did not obtain her signature on disclosure statement of accused Keshav Gupta. The witness

read the seizure memo Ex.PW6/I. He admitted that no currency number was written on the said seizure memo and he used to sign same type of signature on every document. He reached at the house of accused keshav Gupta at around 09.00pm and remained there for about one hour. The IO had prepared the documents pertaining to accused Keshav Gupta in one go.

28. **During his cross examination on behalf of accused Amit Rawat, he deposed that** they reached at the spot where the accused Amit Rawat was apprehended in a private vehicle of IO, however, he did not know the number of abovesaid vehicle. He admitted that from where the accused Amit Rawat was apprehended was a populated area and a busy road. He did not remember the color of cloth worn by accused Amit Rawat at the time when he was apprehended. He did not offer his search to accused Amit Rawat prior to conduct his search. The IO asked public persons to join the investigation at the time of personal search of accused Amit Rawat and seizing of case property but no public person had joined the investigation. He did not give any notice to them or recorded their residential address. He further stated that the IO did not record statement of any other witness in his presence and he remained at the spot where accused Amit Rawat was apprehended for about 1 hour and the IO did not obtain the signature of any public person on the seizure memos of case property which was recovered from accused Amit Rawat.

29. **Further, Ld. Counsel for accused Amit Rawat has adopted the cross examination conducted on behalf of accused Keshav Gupta.**

30. **PW7 HC Pankaj Kumar has deposed that** on 05.01.2022, he was

posted as Ct at PS Jaitpur. On that day, he was on emergency duty and after receiving PCR call, he had joined the investigation with IO/SI Satyaprit and reached at the spot i.e. Lohe ka Pul, Jaitpur, New Delhi, where they saw that one vehicle i.e. Gramin Sewa was already parked there. Complainant also met them. IO prepared the site plan. Tehrir was handed over to him. He went to police station for registration of this case and the case was got registered.

31. **During his cross examination on behalf of accused Keshav Gupta**, he deposed that he had reached at the spot without five minute after receiving DD entry and within 10 minutes IO started recording the statement of the complainant and he could not tell the exact time when he remained at the spot before registration of FIR. He could not tell whether he remained 5 minutes or 10 minutes at the spot or not before registration of FIR.
32. **Ld. Counsel for accused Amit Rawat has adopted the cross examination conducted on behalf of accused Keshav Gupta.**
33. **PW-8 SI Satyapreet (IO) has deposed that** on 05.01.2022, he received DD No.28A regarding robbery and thereafter, he alongwith Ct. Pankaj reached at the spot i.e. Lohia Pul Jaitpur, where he saw that one Gramin Sewa was parked there and complainant Ranjeet along with 3-4 other persons were present there. He made an enquiry from them and recorded the statement of complainant Ranjeet and prepared the rukka Ex.PW8/A. The case was got registered through Ct. Pankaj and after registration of case, he came at the spot and handed over him the original rukka and copy of FIR. He prepared the site plan at the instance of complainant Ex.PW1/B

and he had recorded the statement of other 3-4 persons. During investigation of this case, he came to know that one another robbery has been committed in the same area and the police official from PS Jaitpur was doing the investigation of that case, thereafter, he alongwith complainant Ranjeet were searching the accused in the nearby area and during search when they reached at around 07:30 pm near Peer Baba Nala Road, Jaitpur where 3-4 persons were standing there and complainant pointed out one of accused and stated that *joh yeh ladka khada hai lambe balo wala isne humere saath loot ki hai*. When they reached near to them, the said persons was tried to run away from the spot but immediately they apprehended him and his name revealed as accused Amit Rawat (witness has correctly identified the accused Amit Rawat in the court). He with help of Ct. Naveen conducted personal search of accused Amit Rawat and one knife, two mobile phones i.e. one Redme 9 and RedMe 7 and Rs.800/- recovered from his possession. He prepared the sketch of the knife Ex.PW8/B and he seized the same vide seizure memo of knife vide Ex.PW6/A. He also seized the above mentioned mobile phones and Rs.800/-vide seizure memos Ex.PW6/B, Ex.PW6/C and Ex.PW6/D respectively. He arrested the accused Amit Rawat vide arrest memo Ex.PW1/D, prepared personal search memo of accused Amit Rawat vide personal search memo Ex.PW6/E and also recorded disclosure statement of accused Amit Rawat Ex.PW6/F and as per disclosure statement, accused Amit Rawat led them to the house of other co-accused namely Keshav Gupta @ Dechu which was situated in M-Block Doctor Indu Wali Gali where accused Keshav Gupta was present at his house. He further deposed that he with help of Ct. Naveen conducted search of accused Keshav Gupta@ Dechu and two mobile phones i.e. Samsung Dus and Vivo touch

screen and Rs.643/- were recovered from the possession of the accused Keshav Gupta @ Dechu which the IO seized vide seizure memo Ex.PW6/G, Ex.PW6/H and Ex.PW6/I respectively. He arrested the accused Keshav Gupta @ Dechu vide arrest memo Ex.PW6/C, prepared personal search memo of accused Keshav Gupta @ Dechu vide personal search memo Ex.PW6/J, also recorded his disclosure statement of accused Keshav Gupta @ Dechu Ex.PW6/K, thereafter, they came to the police station alongwith both accused persons alongwith case property., thereafter, he recorded his statement and the case property was deposited in the malkhana of PS Jaitpur. Both the accused persons were sent to hospital for their medical examination and after medical examination of accused persons, both of them were produced before the Court and remanded for JC. During investigation of this case, the CDR of the mobile phone of accused persons were obtained and as per location, they were found present at the spot. He recorded statement of witnesses and prepared the chargesheet and filed before the concerned Court and the case property was released on superdari to its rightful owner and the receipt of mobile phone of complainant was handed over to him by the complainant and during investigation, one mobile phone which was recovered from the possession of accused Keshav Gupta was involved in another FIR and the intimation regarding the same was given to concerned IO. PW8 IO has correctly identified the photographs of mobile phone Ex.P1, mobile phone Redmi Note 7 Ex.P2 and knife Ex.P-3, Ex.P4, Ex.P5 (Colly) and Ex.P6 (Colly). He further deposed that he could identify the accused Keshav Gupta if shown to him however, Ld. Defence counsel for accused Keshav Gupta did not dispute the identify of accused Keshav Gupta.

34. **During the cross examination on behalf of accused Keshav Gupta**, he deposed that the distance between police station and spot was between 1-1 ½ km and he reached the spot within 5 to 10 minutes of receiving DD no.28A. He had recorded the statement of complainant after 3 hours of reaching the spot and during that time, he had not recorded the statement of any other witness and he had prepared the site-plan after registration of FIR and the site-plan was prepared in the presence of the complainant but no other public person was present there. Further that along with him, police officials were also present and he has made Ct. Pankaj as witness on the site-plan. During investigation, no CCTV footage was found available and the complainant had described him the description of the assailants and he had mentioned that accordingly in his statement as narrated by him which he has mentioned in the chargesheet. The distance between police booth and spot was around 50 meters and the same was closed and no police official was on duty at police booth at that time. The complainant remained with him till 12 midnight on that day and apart from complainant, 3 to 4 public persons namely Madan Ram, Ratan Singh, Arijit Dubey and Raju remained till 12 midnight at the police station and the disclosure statement of accused Keshav Gupta was recorded at his residence at around 9:30 p.m and no neighbourer or public person was present when disclosure of Keshav Gupta was recorded. The mother of accused was present at that time and he has not cited the mother of accused as witness on the disclosure statement. The seizure memo of mobile phone and money/cash recovered was prepared at the time of apprehension of accused. He admitted that the disclosure statement was typed and the seizure memo of money/cash was handwritten. He also admitted that he has not mentioned the number of currency note recovered from possession of accused Keshav

Gupta. He further stated that no public person was cited as a witness while preparing the seizure memo of the mobile phone as no public person was present and he had requested public persons to join investigation in present matter, however, none joined. He had not given notice to any public person for not joining the investigation. He stated that the mobile phone bill was not verified by him and he had not recorded the statement of shopkeeper from where the mobile phone was purchased. He had only filed DD no.28A alongwith chargesheet in the present matter. He admitted that the place of incident was thickly populated and the road was a busy road. He voluntarily stated that however, on the day of incident, there were rains. He further deposed that he had deposited the case-property at Malkhana after returning from the spot and he had verified the IMEI number of the mobile phone and checked the same with the mobile phone bill. He further deposed that he has not obtained the CAF number of the mobile phone of accused persons.

35. **During his cross examination on behalf of accused Amit Rawat**, he deposed that he alongwith Ct. Pankaj reached at the spot between 10:00 am - 10:30 am on private vehicle and he had not made any DD entry about vehicle bearing no.UP17S5888 by which they had gone to spot. He admitted that when they reached at the spot there was one Gramin Sewa/Tempo was stationed. He did not remember, if he had mentioned the registration number of above Gramin Sewa/Tempo in rukka which was sent for registration of FIR and when they had reached at the spot, they met about 4-5 persons and when he reached there, firstly he made enquiry with the passengers and thereafter, he had recorded statement of one of the victim namely Ranjit, thereafter, he prepared rukka and sent rukka about 5

pm for registration of FIR. He admitted that he has not shown Tempo/Gramin sewa in the site-plan Ex.PW1/B. He also admitted that he has not shown the distance with the point A to C mentioned in site-plan Ex.PW1/B. He further admitted that he has not shown electric pole, street lights, CCTV camera in the site plan Ex.PW1/B. He had not recorded the statement of one unknown lady, which was mentioned in the complaint as she could not be traced and he had checked the CCTV cameras covering the place of incident but there was no such CCTV camera installed. He further deposed that the Tempo/Gramin Sewa in which the incident occurred had not been seized during the investigation. He further deposed that he had also not collected chance-print inside the Tempo/Gramin Sewa and the photograph of said Tempo/Gramin Sewa was also not clicked. He did not remember exactly at what time Ct. Pankaj came at the spot after registration of FIR alongwith original rukka and copy of FIR but it was around 6 pm. He had not sent any wireless message as to description of accused persons and after receiving the FIR, he prepared site-plan and thereafter, remained present for about 15 minutes at the spot, after completing the proceeding at the spot, he started searching to accused persons alongwith other police officials and complainant. During search, accused Amit Rawat was apprehended at about 7 pm and at the time of searching of accused persons, he alongwith complainant and other police officials were in his private car. The complainant pointed out towards the accused Amit Rawat by mentioning his long hair and then accused Amit Rawat was apprehended. The complainant pointed out accused Amit Rawat at the distance of about 10-20 meter. He had not prepared the pointing out memo at the time of apprehension of accused Amit Rawat. Further that the accused Amit Rawat was probably worn jacket and jeans pant at the time of

his apprehension. He admitted that the place of apprehension of accused Amit Rawat was a public place/road and public persons used to come and go. He had not offered his search to anyone prior to making personal search and apprehension of accused Amit Rawat. He admitted that signature of complainant is not on the seizure memo of knife Ex.PW6/A and seizure memo of mobile phones Ex.PW6/B and Ex.PW6/C. He also admitted that signature of complainant was not on the seizure memo of cash of Rs.800/- Ex.PW6/D. He further deposed that he had not handed over the seal after use to complainant or any public witness. He voluntarily stated that he had handed over the seal to police official. He also admitted that he had not prepared any seal handing over memo and he had not taken fingerprint from the knife or any other articles recovered from the possession of accused Amit Rawat. He had not mentioned serial number of currency notes which was recovered from accused Amit Rawat in seizure memo. He had not verified the bill Ex.PW1/E from the owner of the shop. They remained present at the place of arrest of accused Amit Rawat for about 9 pm, thereafter, they alongwith accused Amit Rawat and accused Keshav Gupta reached to PS at about 12 midnight and no public witness was cited in the arrest memo of accused Amit Rawat as no one was present there.

STATEMENT OF THE ACCUSED U/S 313 CR.P.C.

36. After examination of aforesaid witnesses prosecution closed its evidence and matter was fixed for recording of statement of accused persons under section 313 Cr.P.C, and all the incriminating evidence was put to accused persons to which they denied. They claimed that they were innocent and falsely implicated in the present matter. Accused Keshav Gupta opted to lead evidence in his defence and examined one witness

being his mother.

37. **DW1 Ms. Manju Gupta has deposed that the** accused Keshav Gupta is her son and on 05.01.2022 between 09.00 am to 10.00am, her son Keshav Gupta goes to his shop situated at Noida Sector 44. On that day, at about 02.00 pm, police officials came to his above-mentioned house and they asked about Keshav Gupta. Upon this, she told them that Keshav Gupta is her son, thereafter, they instructed her to produce her son to the police station. Accordingly, on the same day at about 05.00pm, he along with his son reached at police station Jaitpur. She further deposed that her husband was also present there and the police official told that they have to inquire about the Keshav, thereafter, she along with her husband left the police station and on the next morning, she along with her husband went to police station asked about Keshav but the police officials told them to meet with Keshave at the Court. She further deposed that the police officials obtained her signatures on the some papers and the police had arrested her son Keshav and produced him in the Court.

38. **During her cross examination on behalf of Sh. L.D. Singh, Ld. Addl. P.P. for the State,** she admitted that she did not make any complaint to any authority/any other police official when her son was apprehended by the police. She also admitted that she did not make any 100 number call when the accused was detained by the police.

39. Thereafter, DE was closed. Consequently, matter was fixed for final arguments.

ARGUMENTS ON BEHALF OF THE STATE

40. It has been argued by Ld. Addl. PP for State that in the present matter the accused persons are facing trial for commission of offence u/s 392/397/411/34 IPC. It has been argued that on 05.01.2022 when the complainant Ranjeet who was travelling in a Gramin Seva auto along with other passengers namely Madan Ram, Arijit Dubey and the gram in Seva was being driven by PW3 Raju, both the accused persons boarded the Gramin Seva from Lohiya Pul and thereafter had shown knife to the passengers sitting the Gramin Seva and robbed them of their belongings like money and their mobile phones. Subsequently, both the accused persons ran away from the spot when they reached near Nala Road. Upon the complaint of complainant, IO along with other police officials reached the spot and recorded the statement of the complainant, prepared the site plan and started searching for the accused. It has been argued that during investigation, the aforesaid stolen mobile phones of the passengers and the robbed amount was recovered from the possession of the accused persons as they have been apprehended soon after the incident, at the instance of the complainant. It has been argued that all the witnesses in the present matter have identified both the accused persons and that there is no contradiction in the testimony of any of the witnesses and therefore, the accused persons are liable to be convicted.

ARGUMENTS ON BEHALF OF ACCUSED AMIT RAWAT.

41. On the other hand, it has been argued by Ld. Counsel for accused persons that the prosecution has failed to discharge its primary burden of proving the guilt of the accused beyond all reasonable doubt. It is argued that PW-1 in his cross-examination dated 12.10.2022 stated that it was

10:20 AM, when he boarded Gramin Sewa, further he stated that around 11 am, two police officials of Jaitpur police station reached at the spot on bike, whereas the PW-8 IO Satyapreet in his cross-examination stated that he along with Constable Pankaj reached the spot 10am to 10:30 am on a private vehicle bearing no.UP17S5888 whereas PW-4 Sh. Madan Ram in his cross-examination stated that four police official reached the spot. These material contradictions regarding the time of arrival, mode of transport, and number of police officials seriously undermine the credibility of the investigation and the prosecution has failed to reconcile these inconsistencies, entitling the accused to the benefit of doubt. It is further argued on behalf of counsel for accused Amit Rawat that PW-8 IO Satyapreet in his cross-examination stated that he recorded the statement of PW-1, prepared the site-plan and rukka at the spot whereas, the PW-1 stated in his cross examination that police had not recorded his statement at the spot and no documents were prepared by the police officials at the spot. Further, he admitted that his statement was recorded at the police station and site-plan was also prepared in the police station. This material contradiction casts serious doubt on the manner in which the investigation was conducted and the authenticity of the documents allegedly prepared during the investigation. It is submitted that the inordinate and unexplained delay in registering the First Information Report is the first significant dent in the prosecution's narrative. It is further argued that the Investigating Officer, PW-8 SI Satyapreet, has admitted on record that although he reached the spot of occurrence between 10:00 AM and 10:30 AM on the date of the incident, he sent the rukka for registration of the FIR only at 5:00 PM. This unexplained delay of over six hours provides a substantial window for the police to concoct a narrative and fabricate documents at the

police station, which is impermissible in law. It is further argued that first PW-1, PW-3, and PW-4 have consistently stated that the incident occurred in a "Gramin Sewa", however, PW-2 (Rattan Singh) has given a completely contradictory version, categorically stating that he sat in a "Magic car at Meethapur chowk". A Gramin Sewa and a Magic car are distinctly different vehicles, and if all witnesses were traveling together, their testimonies on this fundamental aspect must necessarily align. This discrepancy proves that either they were not traveling together or the witnesses are deposing falsely. Secondly, PW-2 has stated that at the time of the incident, "both the said boys were having muffled face. I had not seen the faces of those boys", however, none of the other prosecution witnesses have mentioned anything about the assailants wearing muffled faces or masks. PW-5, in fact, deposed that "on the alleged date of incident there was COVID-19 time and almost all the people were wearing face mask". If everyone was wearing masks and the assailants had muffled faces, the witnesses could not have had a clear view sufficient for identification. These irreconcilable contradictions on material particulars fatally undermine the prosecution's case regarding the occurrence of the incident and the identity of the perpetrators. It is further argued that PW-3 (Raju) in his cross examination deposed that one of the accused put a knife on his lower back and that the accused put knife on the passengers. PW-4 (Madan Ram) similarly stated that both accused took out their long knives and after showing knives started robbing the passengers. PW-5 (Arijit Dubey) deposed that the two persons were having knife in their hands. However, PW-5 (Arijit Dubey), in his cross-examination, introduced a completely new and contradictory version. He stated that "one accused was carrying one pistol and other accused was carrying one knife in his hand".

This is a material contradiction that was conspicuously absent from his earlier deposition. It is further submitted that the prosecution alleges that the robbery took place inside a Gramin Sewa/Tempo, however, PW-8 (IO SI Satyapreet) admitted in his cross-examination that the alleged vehicle was never seized during the investigation. No photographs were taken, no forensic examination or chance prints were lifted, and even the driver was not made a witness. The failure to seize and examine the very place of occurrence is a serious lapse, rendering the investigation doubtful. It is further argued that the prosecution has failed to establish the identity of the accused in accordance with law. Admittedly, no TIP was conducted during the investigation. Instead, PW-4 Madan Ram and PW-5 Arijit Dubey admitted in their cross-examinations that they identified the accused for the first time in the police station, rendering their dock identification unreliable. Further, PW-2 Rattan Singh, an alleged eyewitness, did not support the prosecution and categorically stated that both assailants had their faces muffled and he could not see them during the incident. His testimony completely demolishes the prosecution's case on identification. The prosecution witnesses also contradicted each other regarding the appearance of the accused. PW-1 stated that accused Amit Rawat was wearing a white sweater, whereas PW-8 stated that he was probably wearing a jacket and jeans, and PW-6 could not even recall the colour of his clothes. These material inconsistencies, coupled with the absence of a TIP, render the identification of the accused wholly unreliable and unsafe to form the basis of conviction. It is also submitted that the alleged recovery of the knife, mobile phones and cash is highly doubtful. PW-8 (IO SI Satyapreet) admitted that although the complainant (PW-1) was allegedly present at the time of recovery, his signatures do not appear on

any of the seizure memos relating to the knife (Ex.PW6/A), mobile phones (Ex.PW6/B & Ex.PW6/C) or cash (Ex.PW6/D). The absence of the complainant's signatures on these crucial documents seriously affects the genuineness of the alleged recovery. Further, the alleged recovery was effected from a busy public place, yet no independent public witness was joined in the investigation. The IO also admitted that he did not offer his personal search before searching the accused, casting further doubt on the fairness of the recovery proceedings. Moreover, there is a material contradiction regarding the timeline. PW-1 deposed that he reached the police station with the accused at about 7:30P.M. and thereafter left for home. In contrast, PW-8 stated that the police party remained at the spot till 9:00 P.M. and reached the police station only at 12:00 midnight. It is further submitted that the prosecution has failed to establish a complete and reliable chain of custody of the alleged case-property. PW-8 (IO SI Satyapreet), in his cross-examination, admitted that after sealing the case property, he neither handed over the seal to the complainant nor to any independent public witness. Instead, the seal remained with another police official, and no seal handing-over memo was prepared. The IO further admitted that no fingerprints were lifted from the knife or other recovered articles, and the serial numbers of the alleged recovered currency notes were also not recorded in the seizure memo. It is argued that the complainant, PW-1, could not provide complete details of the currency notes looted from him, stating only that he had "three notes of Rs.500/- along with other cash". His story regarding his movements after the incident is also inconsistent with the IO's version. PW-3, the driver of the Gramin Sewa, is perhaps the most crucial witness regarding the occurrence. However, he could not even remember the exact date of the incident. When

confronted with his previous statement under Section 161 Cr.P.C. (Ex.PW3/DA), he admitted that the crucial allegation that accused Keshav Gupta had put a knife on his lower back was not recorded in his statement. This is a clear case of a post-event improvement to falsely implicate the accused. Furthermore, PW-4 (Madan Ram) stated that it was raining on the day of the incident (Page 18, Line 4), and PW-5 (Arijit Dubey) testified that it was the COVID-19 time and almost all people were wearing face masks. If it was raining and people were wearing masks, the chances of witnesses getting a clear and unobstructed view of the accused's faces, sufficient for identification, are practically nil. It is further argued that the prosecution relies upon the disclosure statement of accused Amit Rawat (Ex.PW6/F) to establish the link to the crime and the recovery of the co-accused which is completely inadmissible and unreliable. The statement was recorded in the presence of only police officials (HC Dinesh and Ct. Naveen) and no independent public witness. The IO admitted that the disclosure statement was typed whereas the seizure memo of money/cash was handwritten. It is further argued that as held by the Supreme Court in ***Jaskaran Singh v. State of Punjab***, the absence of the signatures or thumb impression of the accused on the disclosure statement recorded under Section 27 of the Evidence Act materially detracts from its authenticity. The accused has not signed this document, and given the totality of the circumstances, it is submitted that this statement was extracted under duress or fabricated by the police to lend legitimacy to a planted recovery. It is further argued that the prosecution has failed to establish a positive link between the recovered articles and the complainant. The IO admitted that the mobile bill (Ex.PW1/E) was not verified from the owner of the shop from where it was allegedly purchased. He also admitted that he did

not obtain the CAF of the mobile phones of the accused to ascertain whether they were actually using those SIMs at the time of the incident. There is no scientific evidence to prove that the recovered mobile phones belonged to the complainant. No fingerprints were lifted from the recovered knife to connect it to the accused. The CDR location, as already discussed in the preliminary notes, does not place both accused at the same spot. The complete absence of any forensic or documentary corroboration to support the oral allegations makes the prosecution case extremely weak. It is submitted that PW-5 (Arijit Dubey) has categorically deposed that "Police official apprehended both accused persons within 2-3 hours after the incident". If the incident occurred at approximately 10:30 AM, the arrest should have taken place around 1:00 PM to 1:30 PM as per PW-5's testimony. However, the Investigating Officer (PW-8) claims that the arrest of accused Amit Rawat occurred only at 7:00 PM and that they remained at the spot till 9:00 PM before reaching the police station at midnight. This discrepancy of nearly 6 hours is a fundamental contradiction regarding the very time of apprehension. If the accused were arrested within 2-3 hours as stated by PW-5, the prosecution's entire timeline regarding the preparation of arrest memos, seizure memos, and disclosure statements becomes false. Furthermore, the conduct of the IO in deliberately excluding independent public witnesses from the arrest and recovery proceedings exposes the malafide intention to plant evidence. PW-4 (Madan Ram) has unequivocally admitted that "In my presence, police had recorded statements of one or two public persons" at the spot on the day of the alleged incident. This admission is devastating for the prosecution because it proves beyond doubt that independent public persons were present at the spot, were willing to interact with the police, and their statements were

recorded as part of the investigation. Despite this undeniable availability of independent public witnesses, the Investigating Officer chose not to cite a single public person to witness the arrest of the accused or the recovery of the alleged knife, mobile phones, and cash. The seizure memos (Ex.PW6/A to Ex.PW6/D) and arrest memo (Ex.PW1/D) are all witnessed exclusively by police officials-Ct. Dinesh and Ct. Naveen-with no independent public signature. The IO admitted that the place of arrest, Peer Baba Nala Road, is a "*public place/road and public persons used to come and go*", yet he deliberately avoided joining them. It further argued that the Hon'ble Supreme Court has consistently held that when a recovery is made from a public place and independent witnesses are available but not joined, the recovery becomes highly suspect. In **Ramanlal v. State of Gujarat, (2002) 9 SCC 438**, the Supreme Court held that when public witnesses are available and no effort was made to join them, the recovery becomes highly suspect. If the police had time to record the statements of public persons in the presence of PW-4, they certainly had the opportunity to make those very persons witnesses to the arrest and recovery. The prosecution cannot be permitted to rely on public presence for one purpose (recording statements) and ignore it for a more critical purpose (witnessing arrest and recovery) merely to suit its narrative. This selective and malafide conduct of the Investigating Officer corrodes the credibility of the entire investigation and the benefit of these grave defects must necessarily go to the accused. In support of his arguments, Ld. Counsel for accused Amit Rawat has relied upon the judgments titled as **State v. Ravi Kumar Toni (Delhi High Court, 2014)**, **Safiullah v. State (Delhi Administration) (Delhi High Court, 1992)**, **Boby v. State of Kerala (Supreme Court, 2023)** and **Jafar v. State of Kerala (Supreme Court, 2024)**.

ARGUMENTS ON BEHALF OF ACCUSED KESHAV GUPTA.

42. It is argued on behalf of the accused Keshav Gupta that there is a delay of about 7 hours in registration of FIR as the incident is of 05.01.2022, DD No. 28 registered at 10.40 AM in P.S. Jaitpur and FIR was registered after 5-6 PM onwards and there is also a delay of more than 4-5 hours of recording the statement of complainant Ex.PW-1/A as according to PW1 police recorded his statement in the police station after 2 hours of alleged incident in the presence of his friend and not at the spot which were also not explained by IO, however, the friend of the complainant was not the witness in present case, even his presence or name of the complainant's friend not was not mentioned in chargesheet but as per PW-7 (HC Pankaj Kumar) statement of the complainant was recorded by IO within 10 minutes, after reached at the spot, on which the present FIR was registered. Further, as per PW-7, they reached at the spot within 5 minutes, after receiving the DD No. 28 at 10.40 AM but as per IO, PW-8 he recorded the Complaint Ex. PW-1/A, after 3 hours of reaching and the as per Rukka Tahrir was recorded at 4.45 PM which proves that complaint Ex.PW1, was a manipulated statement, written by IO after manipulation. It also creates doubt on which place, at what time, the statement of complainant Ex.PW1/A was written by IO. As per settled law, the statement of the complainant/victim shall be recorded without delay, at the spot and as per actual facts of alleged incident for fair enquiry/investigation. It is also submitted that as per the testimony of PW-1 after recording the statement Ex.PW1/A, he along with his friend and police official reached at the spot and site plan was prepared at police post which means that the site plan was not prepared not at the spot. As per PW-1, around 3-4 PM his friend left

him on that day which means site plan was prepared before 3-4 PM in police station. Again, (PW-1) complainant, during his cross examination stated that site plan was prepared in police station. He argued that the missing details on distances in site plan, no distance was mentioned between the points A, B and C as shown in the site plan. He further argued that there is material contradiction between the statement of PW's regarding place of incident and the place of alleged incident mention in the site plan Ex PW-1/B. Gramin Sewa was not shown anywhere in the site plan and no signature of independent witness, friend of complainant are on site plan. Further, that even statement u/s 161 Cr.P.C. of HC Pankaj Kumar (PW-7) was not recorded by IO with regard to preparation of Site Plan. He admitted in his cross-examination that his statement was not recorded by IO in the present case on 05.01.2022. It is well settled law, if site plan was not formally proved, it can significantly impact the prosecution case. Ld. Counsel further argued that the place and time of arrest of accused was not proved. As per the prosecution story, the accused Keshav Gupta was arrested from his house i.e. H.No. M-68, Saurabh Vihar, Jaitpur, New Delhi at 9.15 PM on the disclosure statement of co-accused. As per PW-1(Complainant), the accused persons were apprehended by police from the near Peer Baba, Nala Road, Jaitpur, New Delhi. (prior to 7.30 PM). As per PW-1(Complainant), at about 7.30 PM reached at police station after arrest of accused persons and around 8.30 PM, I left for my home. It is further argued that the testimony of the complainant and other witnesses is contradictory in nature and hence, not reliable. It is further argued that there are major contradiction in the statements of prosecution public witnesses i.e. PW-1, PW-4 and PW-5 and statements of police official prosecution witnesses with regards the place and time of arrest of accused

Keshav Gupta and it creates doubt in which manner accused Keshav Gupta was arrested by police. Further, there is a major contradiction regarding place, time and presence of witnesses of arrest of accused Keshav Gupta in the present case. The prosecution failed to prove the place and time of an arrest of accused Keshav Gupta, which severely damage the prosecution case. It is further argued that Ct. Naveen witness was not examined by prosecution as a witness, during the trial. It has further been argued that the place of recording of disclosure statement and arrest of accused are different as per public prosecution witnesses PW-1, PW-4 and PW-5 and police officials, as per police officials both the memo i.e. Arrest memo and Discloser statement are prepared at the house of accused after the arrest of accused person but as per public witnesses and prosecution witnesses, the same was not in their knowledge. It has further been argued that the accused was wrongly arrested in the present matter. As per facts of case, serious doubts raised about the Identification of accused, as per public prosecution witnesses, the accused was seen in the police station by them and on the same day prior his arrest, the police official shown the accused to the complainant and other public prosecution witness in police station, without conducting TIP, rendering his identification in court is useless. In the absence of proper identification parade being conducted, the identification for the first time in the court cannot be said to be free from doubt. It has further been argued that there was major contradiction on the place and time, from where seizure memos were prepared by Investigation officer and the case property was planted upon the accused. Recovered currency notes were not identified by any witness during investigation or during trial in the court. No TIP of recovered currency notes was conducted by IO during the investigation. Recovery memos were not signed by any

public person or independent witnesses. No site plan of place of arrest of accused or recovery of articles were prepared by investigation officer at the spot. It proves that intentionally, the investigation officer did not prepare the site plan of place of arrest of accused or recovery of articles at the spot because accused Keshav Gupta was not arrest at the place and time as mention in chargesheet and same time, no recovery was affected from the accused and recovery was planted by police officials, after arrest the accused in present false case. It has further been argued that the CDR (Call Detail Record) relied upon by the prosecution were incomplete and without customer Application form (CAF) lacks vital context. In telecom and legal contexts, CDRs provide raw logs of call times, duration and tower, but without CAF to tie the phone number to an exact subscriber identity, the data is unverified. A complete trace fundamentally requires the CAF, as it contain the subscriber's true identity, address, and proof of ID. No evidence on record which proves that both the accused present together at the same place at the time of alleged incident There is no DD Entry on record pertaining to the investigation conducted by Investigation officer. There is only one DD. No 28 A, dated 05.01.2022 on judicial record, which was only registered in P.S. Jaitpur on the PCR call at first instance. That the accused is falsely implicated in the present case and recoveries were planted on the accused Keshav Gupta. The accused is innocent and has no concerned from the allegations in the present case and is liable to be acquitted.

COURT OBSERVATIONS

43. Before appreciating the evidence, brought on record by the prosecution, I must mention here the law of appreciating evidence of the

witnesses. Hon'ble Delhi High Court in case titled as ***Satish Bombaiya Vs. State, 1991 JCC 6147***, had observed:

“While appreciating the evidence of a witness, approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed then undoubtedly it is necessary for the court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether earlier evaluation of evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hyper technical approach by taking sentences torn out of context here and there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter, would not ordinarily permit rejection of the evidence as a whole. The main thing to be seen is, whether those inconsistencies go to the root of the matter or pertained to the insignificant aspects thereof. In the former case, the defence may be justified in seeking advantage of the inconsistencies in the evidence. In the latter, however no such benefit may be available to it. That is a salutary method of appreciation of evidence in

criminal cases.”

44. Keeping in mind aforesaid tenet, I am proceeding further by mentioning the offence as mentioned under the Act.

THE OFFENCE

45. Accused persons in the present matter have been charged for the offence punishable U/s 392/397/411/34 IPC.

As per Section 392 IPC-Punishment for robbery-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.

As per 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, so 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.

As per section 411 IPC Dishonestly receiving stolen property-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.

46. Robbery has been defined in section 390 IPC. It contemplates that the accused should had, from the very start, the intention to deprive the complainant of the property and should, for that purpose, either hurt him or place him under wrongful restrain. To constitute the offence under section 392 IPC, the prosecution is required to prove all the elements required to prove theft and that the accused while committing the aforesaid theft or in order to commit aforesaid theft, voluntarily caused or attempted to cause to

any person either death, hurt, wrongful restrain or fear of instant death or instant hurt or instant wrongful restrain. Further, to facilitate carrying away the robbed property, voluntarily caused to any person death or hurt or wrongful restrain or caused fear of instant death. Therefore, in view of the aforesaid legal provision, if the offender assaults or voluntarily causes hurt to someone after committing robbery by extortion, it would be a separate offence. Further, if the accused is alleged to have used deadly weapon while committing robbery, the same constitutes an offence u/s 397 IPC. Further, by flashing a knife upon the passengers, it can be said that the accused committed robbery by using a deadly weapon. Section 397 IPC does not define any substantive offence and is only a punishing provision. Further, section 397 IPC cannot be applied constructively and relates only to the offender who actually uses the weapon himself. Therefore, the provision postulates only the individual act of the accused to be relevant to attract section 397 IPC and thereby negates use of principle of constructive or vicarious liability engrafted in Section 34 IPC. Therefore, it was required that the accused had committed robbery and while committing such offence had used any deadly weapon or caused grievous hurt to the person or attempted to cause death or grievous hurt to any person. Therefore, it only relates to the offence who actually uses the deadly weapon against the victim. The use of deadly weapon by one accused at the time of committing robbery cannot attract the offence u/s 397 IPC for the imposition of a minimum punishment of another offender or accused who had not used any deadly weapon.

COURT OBSERVATION

47. The case of the prosecution is regarding the incident which had taken on 05.01.2022 at around 10.30 am when the complainant Ranjeet boarded a

Gramin Seva Tempo from Jaitpur Mor. In the aforesaid Gramin Seva, apart from him, two to three more passengers were already sitting. After a distance, two more passengers boarded. Further, when the Gramin Seva reached near Lohia Pul, two men boarded the auto and soon thereafter, started showing knife to the passengers of the Gramin Seva and by putting them into fear of injury, robbed them of their belongings like mobile phones and their money. Soon after the incident, 100 number call was made at around 10.30 am and police officials reached the place of incident and met the complainant Ranjeet. Subsequently, IO met other passengers and victims. On the same day, at the instance of the complainant, accused persons were apprehended and stolen mobile phone of the complainant and some money was recovered from the possession of the accused persons. Disclosure statement of accused persons were recorded. During investigation, after obtaining the CDR of mobile phones of both accused persons, they were found to be present on the place of incident and were having same location where the incident occurred. The prosecution in the present matter, examined five eye-witnesses/victims to substantiate the allegations against the accused persons. Further, prosecution examined three police officials who conducted the investigation in the present matter and deposed regarding the manner in which the investigation was conducted and the various stages of investigation. The testimony of the witnesses is appreciated by the Court in the succeeding paragraphs.

APPRECIATION OF TESTIMONIES OF PUBLIC WITNESSES

48. In the present matter prosecution has examined as many as eight (8) witnesses to prove the guilt of the accused persons.

49. PW1 Ranjeet is the victim and the complainant of the present matter. He is the star witness of the prosecution as the criminal law was set into motion upon his complaint. PW1 Ranjeet, in his complaint, has categorically mentioned that on 05.01.2022 at around 10.15 am he had boarded Gramin Seva auto from Badarpur for Khadda Colony. Along with him, four more passengers including one woman was sitting. One more person boarded auto from Meethapur Chowk and around 10.30 am they reached near Lohia Pul. At that time, two persons boarded the auto and one of them took out a knife and told the tempo driver to not stop the auto and started threatening all the passengers to take out their belongings and abused them and slapped the complainant. At that time, the aforesaid accused persons took out knife and asked the complainant to hand over his mobile phone and money and when the complainant took out his mobile Make Redimi Note 7 Black colour, they snatched the same from the complainant and the other boy to rob the complainant of his wallet containing Rs.2500/-. They robbed other passengers of the auto and took away their purse and money. Subsequently, when the tempo reached dispensary near Nala Road, they stopped the auto and ran away inside the colony. Further, he could identify both the accused.

50. During examination, PW1 Ranjeet disclosed regarding the incident and corroborated his version with his complaint Ex.PW1/A. The aforesaid witness identified both accused Amit Rawat and Keshav Gupta in the Court and also identified his mobile phone (Ex.P1) which was recovered from the possession of accused Amit Rawat. Complainant also disclosed that soon after the incident, the police officials reached the spot and inquired about the matter and he gave his complaint Ex.PW1/A to the police officials. He

had shown the place of incident/spot to the police and site plan Ex.PW1/B was prepared at his instance. Further, he had accompanied the police officials in search of the accused and that both the accused were apprehended by the police at his instance vide arrest memo Ex.PW1/C and Ex.PW1/D which bear his signatures. Further, he had handed over the ownership proof of his mobile phone to the police and the same was Ex.PW1/E. The aforesaid witness also identified the knife used by the accused Amit Gupta at the time of commission of robbery and the same was Ex.P3. The case property was released to him vide superdarinama Ex.PW1/F and the photographs of the same were Ex.P1.

51. The testimony of aforesaid witness was completely corroborated with his complaint Ex.PW1/A. The aforesaid witness was cross examine on behalf of the accused persons, however, his testimony remained firm and there were no contradictions which could amount to the testimony being under shadow.

52. The counsel for the accused persons, during cross examination of PW1, cross examined the witness on the aspect of his presence when the accused persons were apprehended and whether the investigating officer had conducted the investigation as per law. The witness was also cross-examined on the point of his identifying the accused persons and whether the police officials joined public persons when the proceedings were conducted or when the accused persons were arrested and case property were recovered. However, during the aforesaid cross examination, the witness PW1 explained the circumstances when he met the police officials and the manner in which he accompanied the police officials and when at the instance of complainant, the accused persons were apprehended. The

witness categorically stated in his complaint that one of the accused namely Amit Rawat was having long hair, “ एक लम्बे बाल वाले लड़के ने एक कवर से चाकू निकाला और टेम्पो वाले को बोला कि जब तक ना बोलू रोक मत देना और सभी सवारियों से बोला कि जो कुछ भी है सबकुछ दे दो और तभी मुझे गाली देकर थप्पड़ मारा और चाकू दिखाकर बोला सभी जल्दी से Mobile व पैसे निकाल दो जैसे ही मैंने अपना Mobile निकाला तो एकदम से छीन लिया जो मेरा Mobile Redmi Note 7 black Colour था तभी दूसरे लड़के ने मेरी जेब से मेरा पर्स निकाल लिया जिसमें करीब 2500 रुपये थे। जो दोनो लड़के ने एक-एक करके दुसरी सवारियों से भी लूटपाट की तथा पैसे व पर्स चाकू दिखाकर लूट लिये।” The aforesaid witness identified accused Amit Rawat and even during court proceedings, the accused was having long hair and had made a ponytail and upon seeing him in the Court, the witness categorically identified him. Said answers only probablized his version. Complainant refuted the suggestions based on false implication of accused. Accused failed to cull out any fact, by cross-examining complainant, which could have indicated presence of another chain of events, apart from the one, deposed by complainant. Therefore, I conclude that complainant/PW1 stood the acid test of cross-examination. I believed his testimony to be trustworthy and reliable.

53. PW2 Rattan Singh was the victim and eye-witness in the present matter who deposed regarding commission of offence however, he was unable to identify the accused. The aforesaid witness corroborates with the testimony of PW1. The aforesaid witness was not cross examined by any of the accused persons and therefore, I conclude that PW2 was a reliable witness and I believed his testimony to be trustworthy.

54. PW3 Raju was the driver of the Gramin Seva, who categorically deposed that on that day, he was driving his Gramin Seva auto bearing

no.DL2W5414 and when he had taken the passengers and reached near Lohia Pul going towards Khadda colony, two persons boarded the auto who started slapping the passengers and one of them had put a knife on his lower back and abused and asked him to not stop the vehicle. Further, aforesaid witness categorically identified both the accused persons and corroborated the version of PW1 that it was accused Amit Rawat who had taken the knife and was threatening all passengers. Further that both the accused persons had threatened the passengers and PW3 by showing knife and after putting them into fear had robbed them of their belongings. Further that some passengers called 100 number.

55. The aforesaid witness during cross examination, again deposed on the lines of his testimony and there was no contradiction pointed out by the accused persons. Further, the testimony of PW3 was only in extension of explanation towards the incident occurred and therefore, I conclude that PW3 being the victim and eye-witness, stood the acid test of cross-examination. I believed his testimony to be trustworthy and reliable.

56. PW4 Madan Ram was also the victim and eye-witness of the incident, who again corroborated the testimony of PW1, PW2 & PW3. The aforesaid witness categorically explained the manner in which the incident occurred and both the accused persons had committed the offence of robbery against the passengers and had robbed him of his mobile phone and Rs.1400/-. Further, the witness categorically pointed out towards the accused Amit Rawat that he was the same person having long hair and showed knife and further that it was the accused Keshav Gupta who had robbed the passengers of their belongings and that aforesaid amount was taken away. Further, he admitted that his statement was recorded by the

police. The aforesaid clinching evidence and testimony of PW4 only show that the witness had suffered due to the commission of offence.

57. Even during the cross examination of PW4, the witness categorically deposed against the accused persons. Further, he was the witness who had called the police at 112 number and upon his information, the police officials reached the spot. DD No.28A Ex.A1 shows that the witness had categorically stated, *“Jaitpur Gadda Colony, Caller Ne Bataya Ki Who Tempo Se Jaitpur Mod Ja Rhe The Raste Mei 2 Log Tempo Mein Baithe Jo Around 25-30 Yrs K Lag Rhe The Unhone Tempo Mein Baithi Sawari Ko Chaku Dikha Kr Unka Mobile Phone Paise Sb Chhin Liye H.. Or Raste Mei Utar Gye.”* The aforesaid witness stood the test of cross examination and no contradiction, fatal to the case of prosecution could be pointed by Ld. Counsel for accused, therefore, the testimony of PW4 was trustworthy and reliable.

58. PW5 Arijit Dubey was also the victim and witness of the present incident and deposed on the lines of other witness examined by the prosecution. During his testimony recorded before the Court, the witness categorically identified the accused Amit Rawat and Keshav Gupta in the Court and also explained the roles of both the accused persons. They identified the case property/mobile phone Make Samsung DOUS which belonged to him as Ex.P4 and that the same was recovered from the possession of accused Keshav Gupta. The aforesaid witness stood the test of cross examination and no contradiction, fatal to the case of prosecution could be pointed by Ld. Counsel for accused, therefore, the testimony of PW5 was trustworthy and reliable.

59. Therefore, I conclude that all the public witnesses being the victim in their testimony proved the case of the prosecution beyond reasonable doubt and were trustworthy and reliable.

APPRECIATION OF TESTIMONY OF FORMAL WITNESSES

60. PW6 HC Dinesh Kumar was posted at PS Jaitpur on 05.1.2022 and joined the investigation with the IO and Ct. Naveen. Further on the aforesaid date, he along with aforesaid police officials and complainant searched the accused and when they reached near Peer Baba, Nala Road, Jaitpur, at the instance of complainant, accused Amit Rawat was arrested. Ct. Naveen conducted the personal search of accused Amit Rawat and from his possession, two mobile phones and Rs.800/- were recovered and one knife was seized. Further, all the aforesaid were seized vide seizure memo Ex.PW6/A to Ex.PW6/D and further that accused Amit Rawat and Keshav Gupta were arrested, their personal search was conducted and disclosure statement was recorded. The aforesaid witness accompanied the IO during investigation and deposed regarding various stages of the investigation.
61. During his cross examination, the counsel for the accused persons cross examined him on the aspect of document being prepared. However, the aforesaid aspect was already corroborated by PW1. Further emphasis was placed upon joining the public persons during the investigation conducted, however, the aforesaid fact was not fatal, as in today's time, it is difficult for any public person to come forward to join the investigation and the same has already been explained by the IO in the chargesheet as well as in his testimony before the Court. The aforesaid witness stood the acid test of cross examination. The testimony of aforesaid witness was trustworthy and reliable.

62. PW7 HC Pankaj Kumar deposed regarding registration of FIR and also that the IO had prepared the site plan in his presence at the instance of the complainant.
63. The aforesaid witness being formal in nature, corroborated the testimony of PW6 and was thus, trustworthy and reliable.

APPRECIATION OF TESTIMONY OF I.O.

64. PW8 IO/SI Satyapreet conducted the investigation in the present matter. He reached the spot soon after receiving DD no.28A and began the investigation by examining the complainant. He prepared the rukka on the statement of the complainant and after endorsement, got the FIR registered through PW7 HC Pankaj Kumar. Thereafter, he prepared the site plan at the instance of the complainant and recorded the statement of other witnesses. During investigation, he also came to know regarding another robbery committed in the same area of PS Jaitpur. Thereafter, he along with complainant Ranjeet searched for the accused and at around 07.30PM reached near Peer Baba, Nala Road, Jaitpur and at the instance of the complainant apprehended accused Amit Rawat. Further, the personal search of the accused was conducted and from his search, two mobile phones were seized along with Rs.800/-. One of the mobile phone belonged to the complainant. Further, he concluded the investigation by arresting the accused and recorded the disclosure statement of accused Amit Rawat. Further, on the disclosure statement of accused Amit Rawat, accused Keshav Gupta was apprehended and even the aforesaid accused was identified by the complainant Ranjeet. Even from the search of the accused, the mobile phone of PW4 was recovered and other articles robbed were

seized. It has also been deposed by PW8 that during investigation, and as per the CDR record, the location of both accused persons were found at the place of incident. The aforesaid IO conducted the investigation swiftly and as per law and there could not be any doubt regarding the investigation to be without any blemish.

65. During cross examination, PW8 was again cross examined upon the manner in which the investigation was conducted. The testimony of aforesaid witness was corroborated by the other witnesses in the present matter and therefore, I do not find any contradiction in the testimony of the aforesaid witness and his testimony was trustworthy and reliable.

66. Therefore, in the present matter all the witnesses of the prosecution corroborated the version of the complainant. The testimony of all the prosecution witnesses was corroborative in nature and despite their cross examination the accused persons were unable to raise any probable defence. The only defence taken by the accused persons was that they were falsely implicated and the case property was planted upon them. However, the aforesaid defence of the accused persons remained bald as they did not lead any cogent evidence to disprove the case of prosecution. Therefore, the accused persons did not raise any probable defence in their favour by showing any other version of the incident and infact, the presence of accused persons on the spot was proved by the prosecution. IO was not given any suggestion regarding the reason based on which accused was falsely implicated in this case. Further, no suggestions were put by the accused even to the investigating officer. He identified the documents prepared by him along with case property and accused in the court. As such, he stood the acid test of cross-examination. I believed his testimony

to be trustworthy.

67. Accused persons led defence evidence but the witnesses examined by the accused persons only deposed that they were arrested from their home and were falsely implicated in the present matter. The testimony of defence witnesses was of little relevance as DW1 being the mother of accused Keshav Gupta, upon cross examination, did not explain as to why no complaint was filed by her against the wrongful arrest of accused Keshav Gupta.

68. Therefore, in view of the aforesaid discussion, the prima facie offence against accused persons namely Amit Rawat and Keshav Gupta have been proved by the prosecution beyond reasonable doubt. In the present matter, it has been stated by all the witnesses/injured persons that it was for the accused persons who committed robbery, in furtherance of their common intension, robbed the complainant and other victims of their property by putting them under fear. Further, the accused persons were found in possession of the aforesaid robbed property of the injured persons and the complainant which were seized from their possession vide seizure memo Ex.PW6/B, Ex.PW6/C, Ex.PW6/G, Ex.PW6/H, Ex.PW6/D, Ex.PW6/I in the present matter. Therefore, from the evidence available on record and the testimony of witnesses recorded, it cannot be said that the accused persons were falsely implicated or the case property was planted upon them. The accused persons were found in possession of goods/robbed articles of the victim and the complainant and the possession was much proximate in point of time to time of commission of offence and therefore, it can be presumed that the accused persons had committed the robbery by

showing knife being the deadly weapon to the complainant/victims, which created instant fear in the minds of the victims.

69. Thus, prosecution witnesses and evidence led by prosecution, was not doubtful regarding the commission of offence and that the complainant and injured persons were reliable witnesses. Accused persons failed to raise probable defence **and therefore, both accused persons namely Amit Rawat and Keshav Gupta are convicted and liable for commission of the offence punishable U/s 392/411/34. Further, accused Amit Rawat had used knife being a deadly weapon while committing the offence under section 392/411 IPC and therefore, he is liable to be convicted for the offence under section 397 IPC.**

**Announced in open Court
on 16th July, 2026**

**[Sheetal Chaudhary Pradhan]
Additional Sessions Judge-02,
SE District, Saket Courts, New Delhi**