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12 SC No. 801-2023
STATE Vs. BHARAT @ Rahul & Ors.
FIR No. 544/2023
PS : Uttam Nagar
U/s : 392/397/411/34 IPC
CNR No. DLSW01-011291-2023

23.03.2026

ORDER ON CHARGE

Present: Shri Girish Kumar Manhas, Ld. Addl. PP for State.
Accused Bharat @ Rahul ,Shivam and Vishal are
present on bail.
Shri Dhruv Sharma and Puneet Balouria, Ld
counsels for the accused Vishal.
Sh Sahil Vij, Ld Counsel for the accused Shivam.
IO SI Suresh Kumar in person

By this order, I shall decide on the point of charge.

Briefly stating, the case of the prosecution is that on
02.09.2023, on receipt of PCR call vide DD No. 239A, police
reached *H. No. 384, Gali No. 24, Bayala Colony, Om Vihar,
Phase-1A, Uttam Nagar, Delhi*, whereby the complainant Prem
Devi made her statement. In substance, she alleged that at about
9:00 PM, while she and her son were present in the outer room of
the house, three boys came there, showed pistol, entered the
room and robbed cash amounting to about Rs. 4,25,000/-(later on
corrected by the complainant in her supplementary statement to
be Rs. 1 lac), three mobile phones, one gold chain, cash of Rs.
5,000/- from a purse, Aadhaar Card, RC of motorcycle, RC of

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scooty and PAN Card. It is further alleged that while fleeing, one of the boys fired a shot from the pistol and all three escaped after threatening the complainant not to take panga with Bunty.

During the Investigation, site plan was prepared and statements of witnesses were recorded and on 05.09.2023, accused Bharat @ Rahul, Shivam Kumar and Vishal Kumar were arrested. The prosecution case further is that robbed articles/cash/mobile phones were recovered (two mobile phones and Rs. 5200/- from the accused Bharat @ Rahul, one mobile phone from accused Vishal and Pistol along with two live cartridges from accused Shivam Kumar) and the role of the accused persons surfaced through disclosure statements, recoveries, TIP proceedings, CCTV footage and statements of the witnesses under Section 161 Cr.P.C.

The charge-sheet shows that complainant identified accused Bharat @ Rahul and Shivam Kumar in TIP proceedings. The record further reflects that CCTV footage was collected and that the clothes seen in CCTV were also taken into possession. The prosecution case also shows that a pistol and cartridges were recovered during investigation and that the role attributed is that Vishal Kumar fired the shot during commission of robbery, while the weapon was later passed on and recovered from Shivam Kumar.

Ld Counsel for the accused Shivam Kumar submits that with respect to the accused Shivam no charge under Section 397 IPC is made out as section 397 IPC is an independent

offence and is only attracted towards the person who has used the deadly weapon while committing the robbery or dacoity.

Ld Addl. PP for the State has argued that the charges are made out against all the accused persons as per the charge sheet and it is submitted that the same may be framed.

It is trite to say that at the stage of framing of charge, the Court is not required to weigh the evidence as if finally deciding the case. The Court has only to see whether the material on record discloses grave suspicion against the accused persons.

The statement of the complainant clearly shows commission of robbery by three persons acting conjointly, armed with firearm and one shot having been fired during the occurrence. The material collected by the prosecution, including arrest of the accused persons soon after the incident, alleged recoveries, TIP identification of two accused, CCTV material and witness statements, prima facie makes the case against all three accused.

So far as offence under Section 392 IPC is concerned, the material on record prima facie shows that all three accused, in furtherance of their common intention, committed robbery of cash, mobile phones and other articles from the complainant. As such, all accused persons are liable to be charged for the offence of robbery.

So far as offence under Section 397 IPC is concerned, the prosecution version is that while committing the

robbery, firearm was used and a shot was fired. Since the material shows use of deadly weapon in the course of robbery charge under Section 397 IPC is made out against the accused Vishal only to whom the specific use is attributed.

As regards the accused Shivam Kumar, the prosecution material prima facie shows recovery/possession of pistol and two live cartridges from him during investigation. Hence, a prima facie case under Section 25 Arms Act is also made out against him.

As regards Vishal Kumar, the prosecution case specifically attributes to him the act of firing from the pistol at the time of robbery. Therefore, a prima facie case under Section 27 Arms Act is also made out against him.

Insofar as Section 411 IPC is concerned, the same is ordinarily attracted against a person who dishonestly receives or retains stolen property knowing or having reason to believe it to be stolen. In the present case, the prosecution case itself is that the accused persons are the actual perpetrators of the robbery.

Therefore, at this stage, separate charge under Section 411 IPC against the same accused persons is not called for.

Accordingly, this Court holds that there is sufficient prima facie ground for presuming that accused Bharat @ Rahul, Shivam Kumar and Vishal Kumar committed offence punishable under Sections 392/34 IPC, additionally accused Shivam Kumar committed offence punishable under Section 25 Arms Act and

further the accused Vishal Kumar also committed offence punishable under Section 397 IPC & 27 of the Arms Act.

Charge for the offence punishable under Section 392/34 of Indian Penal Code framed against all the accused persons and charges for the offence punishable under Section 397 IPC and Section 27 of Arms Act is framed against the accused Vishal Kumar and charges for the offence punishable under section 25 Arms Act is framed against the accused Shivam Kumar to which the accused persons pleaded not guilty and claimed trial.

List the PE on 18.05.2026

Let PWs mentioned at S. No. 1 / Prem Devi and 13/ HC Amit be summoned through IO concerned for NDOH.

Also issue notice to IO and MHCM concerned to produce the case property, if any, on NDOH.

(Ravinder Singh - II)
ASJ-05/South-West District,
Dwarka/ Delhi/23.03.2026

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