

**FORM-A****Exh.32****IN THE COURT OF 2<sup>nd</sup> ADDITIONAL SESSIONS JUDGE****DAHOD AT, LIMKHEDA.**

Present : Minaxi Mahesh Soni.

(Date of Judgment : **30.06.2026**)**(Sessions Case No.23/2017)**

(Old Sessions Case No. 151/2012)

**(Limkheda Police Station 1<sup>st</sup> Crime Register No.121/2010,****Section 395 of I.P.C.)**

|                |                                                                                                                                                                                                       |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COMPLAINANT    | STATE OF GUJARAT<br>Original Complainant: Umedbhai Nagindas Patel                                                                                                                                     |
| REPRESENTED BY | LD. A.G.P. MR.S.V.TADVI                                                                                                                                                                               |
| ACCUSED        | <b>VISHAL PUNAMBHAI GARANGE<br/>(CHHARA),</b><br>AGE - 30 YEARS OLD,<br>OCCUPATION – LABOUR WORK<br>RESIDING AT KUBER NAGAR,<br>CHHARA NAGAR ROAD, FREE<br>COLONY, B WARD, CHHARA<br>NAGAR, AHMEDABAD |
| REPRESENTED BY | -                                                                                                                                                                                                     |

**FORM-B**

|                 |            |
|-----------------|------------|
| Date of Offence | 28.08.2010 |
| Date of FIR     | 29.08.2010 |

|                                      |            |
|--------------------------------------|------------|
| Date of Charge sheet                 | 12.04.2012 |
| Date of Framing of Charges           | 10.07.2015 |
| Date of Commencement of evidence     | 14.09.2015 |
| Date on which judgment is reserved   | 30.06.2026 |
| Date of the Judgment                 | 30.06.2026 |
| Date of the Sentencing Order, if any | NIL        |

### ACCUSED DETAILS

| Rank of the Accused | Name of Accused                 | Date of Arrest | Date of Release on Bail | Offences charged with | Whether Acquitted or convicted | Sentence imposed | Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C. |
|---------------------|---------------------------------|----------------|-------------------------|-----------------------|--------------------------------|------------------|-------------------------------------------------------------------------------|
| 1                   | <b>VISHAL PUNAMBHAI GARANGE</b> | 26-03-2012     | 04-05-2012              | Section 395 of I.P.C. | Acquitted                      | -                | 40 Days                                                                       |

### FORM-C

#### LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

##### A. Prosecution:

| P.W. No. | Exh | NAME | NATURE OF EVIDENCE (EYE WITNESS, |
|----------|-----|------|----------------------------------|
|----------|-----|------|----------------------------------|

|   |    |                              |                                                                                               |
|---|----|------------------------------|-----------------------------------------------------------------------------------------------|
|   |    |                              | POLICE WITNESS,<br>EXPERT WITNESS,<br>MEDICAL<br>WITNESS, PANCH<br>WITNESS, OTHER<br>WITNESS) |
| 1 | 06 | Sanjaykumar Umedbhai Patel   | Witness                                                                                       |
| 2 | 11 | Manishkumar Ashokbhai Patel  | Witness                                                                                       |
| 3 | 18 | Burhanbhai Taherbhai Gulgula | Witness                                                                                       |
| 4 | 21 | Kutbuddin Taherbhai Gulgula  | Witness                                                                                       |
| 5 | 29 | Pravinsinh Mulsinh Rathod    | Investigating<br>Officer                                                                      |

B. Defence Witness, if any :

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE WITNESS,<br>EXPERT WITNESS, MEDICAL WITNESS,<br>PANCH WITNESS, OTHER WITNESS) |
|------|------|--------------------------------------------------------------------------------------------------------------------------|
| -    | -    | -                                                                                                                        |

C. Court Witness, if any :

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE WITNESS,<br>EXPERT WITNESS, MEDICAL<br>WITNESS, PANCH WITNESS,<br>OTHER WITNESS) |
|------|------|-----------------------------------------------------------------------------------------------------------------------------|
| -    | -    | -                                                                                                                           |

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

A. Prosecution:

| Sr.<br>No. | Exhibit<br>Number | Description                                   | Proved by /<br>Attested by |
|------------|-------------------|-----------------------------------------------|----------------------------|
| 1.         | 09                | Panchnama of place of offence                 | -                          |
| 2.         | 10                | Panchnama of physical Condition of<br>Accused | -                          |
| 3.         | 19                | Death Certificate of Taherbhai                | PW 3                       |

|    |    |                                                       |      |
|----|----|-------------------------------------------------------|------|
|    |    | Abdulhusen Gulgula.                                   |      |
| 4. | 20 | Death Certificate of Ruvabben Abdulhusenbhai Gulgula. | PW 3 |
| 5. | 30 | Complaint.                                            | PW 5 |

## B. Defence :

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
| -       | -              | -           |

## C. Court Exhibits :

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
| -       | -              | -           |

## D. Material Objects :

| Sr. No. | Description of the Exhibit | Description |
|---------|----------------------------|-------------|
| -       | -                          | -           |
| -       | -                          | -           |

**-: J U D G M E N T :-**

(1) Brief facts of the case of the prosecution are as under :

That, on 29.08.2010, F.I.R. being I<sup>st</sup> C.R.No.121/10 was lodged with Limkheda police station for the offence punishable under Section – 395 of I.P.C, by Umedbhai Nagindas Patel, Resident of Parel, Railway Colony, Ta- Dist. Dahod, stating that, he along with his family resides at the above mentioned address and he works as a Welder in Railway.

On 28/08/2010, complainant Umedbhai along with his son Sanjay, Dattubhai Narsinhbhai Sadhu, Manish Ashokbhai Patel, Shankarbhai Rajgopal and Raju Somnath Pal were returning in two vehicles bearing registration Nos. GJ.22.A.939 and GJ.23.A.7725 from Balasinor to Dahod after finalising a vehicle purchase. At approximately 21:30 hours, while passing a point 0.5 kilometers beyond Kamboi, the complainant's vehicle sustained a tyre puncture due to an obstruction placed on the road. As the occupants of both vehicles stopped to replace the tyre, they were ambushed by a group of approximately eight unidentified individuals, some of whom were wearing *chaddi-baniyan* while others were in shirt-pants who by the use of force and intimidation, conjointly committed an act of dacoity. The assailants systematically dispossessed the occupants of their cash and valuables. From the complainant, they forcibly took Rs. 2,50,000/- cash, a silver *bhoriyu* (Rs.3,000/-), a gold chain (1.5 tolas, Rs.24,000/-), two gold rings (Rs.5,000), a Nokia mobile with SIM No. 94263 98077 (Rs.1,000), from his son Sanjay, they robbed a gold chain (1 tola, Rs.16,000/-), two gold rings (Rs.6,000), a Range mobile (Rs.5,000), Rs. 1,200/- Cash, an SBI ATM card, and documents. Furthermore, from Dattubhai Narsinhbhai Sadhu, they looted Rs.4,000/- cash and a Nokia mobile (Rs.4,000) and other documents including driving license. Subsequently, the assailants targeted the second vehicle that stopped behind them, looting Rs. 3,000/- cash from Taher Abdulhusen Gulgula, then from his sister namely Ruvabben of two gold bangles (Rs.36,000/-), one gold chain (3 grams,

Rs.3,000/-), two gold rings approximately worth Rs.6,000/-, gold earrings (Rs.3,000/-); from Jainabben Taherbhai Gulgula, they looted two gold bangles (20 grams, Rs.36,000), a gold ring and gold earrings worth Rs.6,000/- and a purse containing cash worth Rs.5,400/- and house keys, from Kutbuddin Taherbhai Gulgula, cash worth Rs.1,700/- and documents; and from Burhanbhai Taherbhai Gulgula, a purse containing cash worth Rs.400/- and documents including driving license, and from driver Rafikbhai Abdulrajjak Kagdi, Rs.800/-. Finally, they looted Krushnaram, driver of truck bearing Registration No. GJ.5.UU.8104, of Rs.3,500/- cash and a Nokia mobile (Rs.1,000/-) having SIM card No. 96626 90710. After looting the aforementioned cash, ornaments, mobile phones, and personal documents worth Rs.4,65,000/- from the victims in both vehicles, the assailants fled into the forest. There-after, complaint was registered against the unknown persons.

(2) During the investigation, the Investigating Officer carried out the panchnama of place of offence and recorded statements of witnesses of acquainted persons, as there was sufficient evidence, he has submitted the charge-sheet before the Ld. Judicial Magistrate First Class, Limkheda.

(3) After completion of procedure under Section-207 of the Code of Criminal Procedure and as the offence is punishable under Sec.395 of I.P.C., which is sessions triable, this case was committed under Section-209 of the Code of Criminal Procedure

to the Sessions Judge, Dahod at Limkheda, hence, this sessions case is tried before this Court.

(4) Charge has been framed against the accused at Exh.02, for the alleged offence, under Section 395 of the Indian Penal Code. The accused denied the said charges and claimed to be tried. The prosecution has examined witnesses and relied upon many documentary evidence as mentioned herein below, in order to prove the charges levelled against the accused.

(4.1) There-after, during course of recording of the evidence accused has not remained present since long time. Moreover, warrants have been issued to the surety but they have also not remained present. Therefore, on perusal of the record, there is no possibility to find out the present accused in the near future and therefore, due to his absence the proceedings of this Sessions Case is prolonging and therefore, this Court has passed the order below Exh.1 to record the evidence as per Section 335 of the B.N.S.S. (Section 299 of the Cr.P.C.) against the present accused on dtd. 10.10.2025.

(5) During the course of trial, 05 prosecution witnesses have been examined by the prosecution. Prosecution has also led documentary evidence, which shall be discussed at relevant stage.

(6) After conclusion of evidence, the prosecution has closed evidence vide pursis Exh.31. It is pertinent to note that

accused has not remained present before this Court therefore, no further statement of accused under Section-313 of the Code of Criminal Procedure recorded.

(7) The learned A.G.P. Mr. S.V.Tadvi has argued that, the prosecution has proved its case beyond reasonable doubt against the accused by the evidence, produced here in this case and the accused may be convicted for the alleged offence.

(8) For the above mentioned allegations, following points are arisen for decision of this trial.

### **POINTS**

1. Whether the prosecution proves beyond reasonable doubt that, on 28/08/2010 at about 21:30 hours, when complainant and his associates were returning from Balasinor after finalising the purchase of 'Curvalis' vehicle and were passing from Godhra-Dahod road near Usra village and when they reached half a kilometer far from Kamboi towards Dahod, accused placed wire fencing on the road to cause a tyre puncture, did forcibly dispossess the complainant and witnesses of gold and silver ornaments, cash, mobile phones, driving licenses, house keys, and other personal property, amounting to a total value of Rs. 4,65,000/- using violence and intimidation and thereby committed the offence punishable

under Section - 395 of the Indian Penal Code ?

2. What order ?

(9) My answer for the above points are as under.

1. In the negative.
2. As per final order.

(10) My reasons for the above answers are as follows.

**:- REASONS :-**

**POINT NO.1**

(11) It is the prime duty of the prosecution to prove the case beyond reasonable doubt by cogent trustworthy and impeachable evidence.

(12) The complainant, Umedbhai Nagindas Patel has passed away on 30/03/2014, prior to his examination in court. Accordingly, the prosecution has led evidence through other witnesses to substantiate the charges.

**EVIDENCE OF THE OTHER WITNESSES**

(13) Here to prove the case, the prosecution has examined the witness – Sanjaykumar Umedbhai Patel as (PW-1) vide Exh-06, whereby in examination-in-chief, he deposed that his father Umedbhai Nagindas Patel (Original Complainant) used to work

at Dahod Workshop as Welder and he died on 30/03/2014 due to heart attack. The present complaint was lodged by his father. He deposed that incident occurred around five years ago. At that time, at about 3:00 hours, he, his father, Dattubhai Narsinhbhai Sadhu, Manish Ashokbhai Patel, Shankarbhai Rajgopal and Raju Somnath Pal departed in an *Indica* car bearing registration No. GJ.22.A.939 and other vehicle bearing No. GJ.23.A.7725 from Dahod to Balasinor for purchasing 'Curvalis' vehicle and after finalising the deal, they departed from Balasinor at about 19:30 hours for Dahod. At that time, while passing a point 0.5 kilometers beyond Kamboi, fencing wire was placed on the road and in attempt of passing safely without damaging the vehicle, the complainant's vehicle sustained a tyre puncture. As the occupants of both vehicles stopped to replace the tyre, they were ambushed by a group of approximately eight unidentified individuals, who assaulted the witnesses and complainant. Thereafter, from the complainant, they forcibly took cash worth Rs.2,50,000/-, a silver *bhoriyu* (Rs.3,000/-), a gold chain (1.5 tolas, Rs.24,000/-), gold ring (Rs.5,000), a Nokia mobile with SIM No. 94263 98077 (Rs.1,000), from present witness, they robbed a gold chain, gold ring, a mobile phone, Rs. 1,200/- Cash, an SBI ATM card, and documents including driving license. Furthermore, from Dattubhai, they looted Rs.4,000/- cash and a Nokia mobile and other documents including driving license. Subsequently, the assailants targeted the second vehicle that had stopped behind them, looting Rs. 3,000/- cash from Taher Abdulhusen, then from his sister namely Rubabben Abdulhusen

of two gold bangles (Rs.36,000/-), one gold chain (3 grams), two gold earrings and gold ring about worth Rs. 6,000/-; from Jainabben, they looted two gold bangles (20 grams), a gold ring and a pair of gold earrings and a purse containing Rs.5,400/- cash and house keys, from Kutbuddin Taherbhai, cash worth Rs.1,700/- and documents including driving license; and from Burhanbhai, documents including driving license, and from Rafikbhai, Rs.800/- cash. Thereafter, they looted truck driver of Rs.3,500/- cash and a Nokia mobile. There-after, they looted the passengers of a 'Wagon R' car coming from Dahod side, They looted a golden neck chain (13 Grams), Silver anklets, Cash worth Rs.70,000/-, Mobile phones, Bank passbooks etc which was subsequently disclosed to witness by 'Harshidaben'. Thereafter, the assailants fled towards their houses. He further stated that Police recorded his statement. At the time of incident, he did not identify any of the assailants. He stated that he could not identify the assailants if presented before him.

During the cross-examination by the Ld. Advocate for the accused, he admitted that incident occurred at 21:00 hours in night. He admitted that he was listening when his father was dictating the complaint. That after his father filed the complaint, they all left the place and subsequently, they have had no further contact with anyone.

(14) There-after, in this matter, prosecution has examined Witness **P.W.2** – Manishkumar Ashokbhai Patel at Exh.11,

**P.W.3** – Burhanbhai Taherbhai Gulgula at Exh.18, **P.W.4** Kutbuddin Taherbhai Gulgula at Exh.21, whereby in examination-in-chief, they all have deposed in the same line and supported the version of P.W.1 Sanjaykumar Umedbhai Patel and mainly deposed that incident occurred in the night. They all have admitted the occurrence of the incident. They have also admitted the incident of dacoity. But, they all have also clearly stated that they could not identify the perpetrators at the time of incident. Therefore, present witnesses have supported the incident occurred as per the case of the prosecution but they have not identified any perpetrators or accused.

### **EVIDENCE OF INVESTIGATING OFFICER**

(15) There-after, in this matter the prosecution has examined investigation officer (**PW-05**) Mr. Pravinsinh Mulsinh Rathod vide Exh-29 whereby in examination-in-chief, he deposed that in the year 2011, he was performing his duty as P.S.I. at Limkheda Police Station, at that time, he took over the investigation of the present offence. The absconding accused vishal Punambhai Garange was previously detained by Sardarnagar Police Station, Ahmedabad, under Section 141(1)(a) of the CrPC. Subsequently, in connection with the present offence, the said accused was formally arrested on 26/03/2012. Thereafter, the accused was produced before the Ld. Judicial Magistrate First Class, Limkheda and received the remand of accused till 28/03/2012 and after completion of remand period, accused was presented before the Court and was subsequently

sent to judicial custody. There-after, collecting sufficient evidence against the accused persons, he has filed the charge-sheet against the present accused person. He has identified the complaint produced vide Exh.30. He stated that he is acquainted with the accused and who was not present in the Court.

(16) The complaint, produced at Exh.30 has been lodged on 29.08.2010, as the incident occurred in the night at about 21:30 hours, so it can be said that complaint was registered promptly. The prompt FIR has significant value in the criminal trial. But it is needless to say that, FIR under Section-154 of the Criminal Procedure Code is a corroborative piece of evidence and the substantial evidence is deposition of the first informant before the Court, but by FIR, it can be said that, on the day of occurrence, this thing was happened and informed to the Authority. Considering the complaint produced at Exh.30, nowhere the name of the accused has been mentioned. Moreover, as the witnesses have clearly admitted in their depositions that they have not identified any of the perpetrators at the time of incident therefore the case of the prosecution cannot be proved beyond reasonable doubt against the accused.

(17) So far as the evidence of Investigating Officer is concerned, it is needless to say that, the Investigating Officer has never personal knowledge of the case and for that, the Hon'ble Gujarat High Court in the case Hamiddullah Bismillahkhan Nawab Vs. State of Gujarat reported in **1988(1) GLH page 375**

delivered by the Hon'ble Justice D.C.Gheewala and Hon'ble Justice J.C.Desai has held that, “knowledge of Investigating Officer regarding the occurrence cannot be said to be in personal knowledge of Investigating Officer and it cannot be considered as evidence against the accused.” It is pertinent to note that, Investigating Officer has no personal knowledge regarding the occurrence, but he came to know regarding the fact by interrogation and other thing, so the Court cannot solely rely the evidence of Investigating Officer as he has no personal knowledge.

(18) Considering the oral as well as documentary evidence on record, it is not in dispute that the name of the accused is not on the surface of the F.I.R. Further, in the oral evidence of the witnesses, they have not given the name of the accused, they have not identified the accused at the time of commission of offence and it is not proved beyond reasonable doubt that muddamal has been recovered from the present accused.

(19) In view of the aforesaid discussion, this Court completely satisfied that the prosecution has failed to prove the charges against the accused and Court comes to the conclusion that, the prosecution has failed to prove its charge of Section-Sec. 395 of Indian Penal Code against the accused beyond reasonable doubt, hence, I reply the Points No.1 in the negative accordingly.

## **ISSUE NO.2**

(20) So far this issue is concerned, it is the cardinal principle of criminal justice system that, the prosecution has to prove its case beyond reasonable doubt. But herein this case, as discussed here-in-above, the prosecution fails to prove its charge against the accused beyond reasonable doubt, hence, this Court is of the opinion to acquit the accused, therefore following final order is passed in the interest of justice.

**-: ORDER :-**

1. As per Section 235(1) of Cr.P.C., the accused **Vishal Punambhai Garange (Chhara)**, is hereby acquitted from the charges of the offence punishable under **Section – 395** of the Indian Penal Code, which was registered before the **Limkheda** Police Station vide **1<sup>st</sup> C.R. No.121 of 2010**.
2. Accused is ordered to furnish a surety of **Rs.15,000/- (Rupees Fifteen Thousand Only)** and personal bond of like amount for compliance of Section 437-A of the Cr.P.C.
3. Accused is on bail. His bail bond stands discharged.

Pronounced in open court today on this **30<sup>th</sup>** day of **June, 2026**.

Date: 30/06/2026  
Place : Limkheda

**[MINAXI MAHESH SONI]**  
**2<sup>nd</sup> Additional Sessions Judge,**  
**Dahod At Limkheda**  
**[Code No. GJ 00740]**

(D.M.Aswani)