



FORM-A

Exh.

IN THE COURT OF 2nd ADDITIONAL SESSIONS JUDGE DAHOD
AT, LIMKHEDA.

Present : 2nd Additional Sessions Judge

(Date of Judgment : 30.06.2026)

(Sessions Case No.43/2022)

with

(Sessions Case No.14/2021)

with

(Sessions Case No.12/2024)

with

(Sessions Case No.44/2023)

(Limkheda Police Station 1st Crime Register No.99/2019,
Section 395 of I.P.C.)

COMPLAINANT	STATE OF GUJARAT
REPRESENTED BY	LD. A.P.P. MR.S.V.TADVI
ACCUSED	<u>SESSIONS CASE NO.43 OF 2022</u> (1) RAMESHBHAI VIRSINGBHAI GANAVA, AGE – 24 YEARS, OCCUPATION – AGRICULTURE RESIDING AT CHEDIYA, TAL.LIMKHEDA DIST.DAHOD. (2) BHARAT @ BHARTO MOTIBHAI MANDOD AGE – 35 YEARS, OCCUPATION – AGRICULTURE RESIDING AT DUDHAMALI, MANDOD FALIYA, TAL.DHANPUR, DIST.DAHOD <u>SESSIONS CASE NO.14 OF 2021</u> (1) MAJUBHAI ALICHANDBHAI @ ALSINGBHAI MANDOD AGE – 26 YEARS, OCCUPATION – AGRICULTURE, RESIDING AT DUDHAMALI, MANDOD

	FALIYA, TAL.DHANPUR, DIST.DAHOD. (2) LALJIBHAI DHANIYABHAI BILVAL AGE – 26 YEARS, OCCUPATION – AGRICULTURE, RESIDING AT CHILAKOTA, DHED FALIYA, TAL.LIMKHEDA, DIST.DAHOD. <u>SESSIONS CASE NO.12 OF 2024</u> DALIYO @ GANDO KALIYABHA MOHANIYA AGE – 50 YEARS, OCCUPATION – LABOUR WORK & AGRICULTURE, RESIDING AT UNDER MAL FALIYA, TAL.DHANPUR, DIST.DAHOD <u>SESSIONS CASE NO.44 OF 2023</u> MUKESHBHAI KALUBHAI @ KALIYABHAI MOHANIYA AGE – 35 YEARS, OCCUPATION – AGRICULTURE, RESIDING AT UNDAR, MAL FALIYU, TAL.DHANPUR, DIST.DAHOD.
REPRESENTED BY	LD. ADVOCATE MR.R.B.PATEL

FORM-B

Date of Offence	05.10.2019
Date of FIR	29.10.2020
Date of Charge sheet	09-03-2020 <u>Sessions Case No.43 of 2022</u> 05.11.2020 <u>Session Case No.14 of 2021</u> 08.08.2022 <u>Sessions Case No.12 of 2024</u> 13.04.2023 <u>Sessions Case No.44 of 2023</u>
Date of Framing of Charges	22.11.2022 <u>Sessions Case No.43 of 2022</u> 01.01.2024 <u>Sessions Case No.14 of 2021</u> 11.04.2025

	<u>Sessions Case No.12 of 2024</u> <u>Order Below Exh.01 u/s.335 of</u> <u>B.N.S.S.</u> <u>Sessions Case No.44 of 2023</u>
Date of Commencement of evidence	08.02.2024
Date on which judgment is reserved	18.06.2026
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.
SESSIONS CASE NO.43 OF 2023							
1	RAMESHBHAI VIRSINGBHAI GANAVA	09-01-2020	16-03-2020	Section 395 of I.P.C Act,	Acquitted	-	02 Months 07 Days
2	BHARAT @ BHARTO MOTIBHAI MANDOD	09-01-2020 04-04-2022	02-09-2020 06-09-2022				07 Months 24 days
SESSIONS CASE NO.14 OF 2021							
1	MAJUBHAI ALICHANDBHAI @ ALSINGBHAI MANDOD	06-09-2020 31-03-2023	30-09-2021 20-02-2026	Section 395 of I.P.C Act,	Acquitted	-	01 Years 24 days 02 Years 10 Days
2	LALJIBHAI DHANIYABHAI BILVAL	16-09-2020 07-11-2022	29-09-2020 01-12-2022		Acquitted	-	13 days 24 days

<u>SESSIONS CASE NO.12 OF 2024</u>							
1	DALIYO @ GANDO KALIYABHA MOHANIYA	10-03-2021 16-03-2024	24-03-2021 11-10-2024	Section 395 of I.P.C Act,	Acquitted	-	14 days 06 Months 25 Days
<u>SESSIONS CASE NO.44 OF 2023</u>							
1	MUKESHBHAI KALUBHAI @ KALIYABHAI MOHANIYA	22-02-2023	01-09-2023	Section 395 of I.P.C Act,	Acquitted	-	05 Months 10 days

FORM-C**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution:**

RANK	Exh	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
1	16	Rakeshbhai Rameshbhai Ravat	Complainant
2	18	Balvantbhai Naniyabhai Ravat	Panch-witness
3	21	Dhirsingbhai Javrabhai Patel	Panch-witness
4	22	Sureshbhai Maniyabhai Chauhan	Panch-witness
5	24	Raymalbhai Parvatbhai Patel	Panch-witness
6	26	Raysingbhai Tersingbhai Bhabhor	Panch-witness
7	27	Dilipbhai Pratapbhai Gamar	Panch-witness
8	29	Arvindbhai Babubhai Gamar	Panch-witness
9	30	Ushaben Prakashbhai Valavi	Witness
10	31	Ashaben Sanjaybhai Ravat	Witness
11	33	Sanjaybhai Rameshbhai Ravat	Witness
12	34	Somabhai Ratnabhai Parmar	Investigating Officer
13	35	Karanbhai Bachubhai Damor	Investigating Officer

14	36	Harpalsinh Natvarsinh Ramlavat	Investigating Officer
15	37	Bharatbhai Savjibhai Bhabhor	Investigating Officer
16	38	Nileshbhai Galubhai Paragi	Investigating Officer
17	42	Shaileshbhai Ishwarbhai Desai	Investigating Officer
18	44	Niteshkumar Kanubhai Damor	Investigating Officer
19	47	Maganbhai Kalubhai Ravat	Investigating Officer
20	48	Sumliben Maganbhai Ravat	Investigating Officer
21	51	Savitaben Dilipbhai Ravat	Investigating Officer
22	52	Ghanshyam Jayantilal Patel	Mamlatdar
23	59	Masulbhai Bhimabhai Bhuriya	Investigating Officer
24	69	Vasantkumar Prabhudas Patel	Investigating Officer
25	84	Hareshkumar Parthibhai Karen	Investigating Officer
26	89	Bhavik Dineshkumar Shah	Investigating Officer
27	93	Mukeshbhai Karshanbhai Chaudhary	Investigating Officer
28	96	Kalpeshbhai Laxmanbhai Patani	Investigating Officer

SESSIONS CASE NO.14/21

1	20	Rakeshbhai Rameshbhai Ravat	Complainant
2	22	Balvantbhai Naniyabhai Ravat	Panch-Witness
3	26	Sureshbhai Maniyabhai Chauhan	Witness
4	27	Dhirsingbhai Javrabhai Patel	Panch-Witness
5	31	Shaileshbhai Ishwarbhai Desai	Witness
6	32	Ashaben Sanjaybhai Ravat	Witness
7	33	Ushaben Prakashbhai Valvi	Witness
8	34	Sumliben Maganbhai Ravat	Witness
9	35	Maganbhai Kalubhai Ravat	Witness
10	36	Savitaben Dilipbhai Ravat	Witness
11	38	Atlaben Dharmeshbhai Ravat	Witness

SESSIONS CASE NO.44/23

1	11	Balvantbhai Naniyabhai Ravat	Panch-witness
2	13	Sureshbhai Maniyabhai Chauhan	Panch-witness

B. Defence Witness, if any :

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

C. Court Witness, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description	Proved by / Attested by
1.	17	Complaint ;	PW-1
2.	19	Panchnama of place of offence	PW-2
3.	20	Discovery Panchnama u/S.27 of the Indian Evidence Act,	PW-2
4.	25	Panchnama of T.I.Parade	PW-5
5.	28	Panchnama of T.I.Parade	PW-7
6.	53	Letter to arrangement for the T.I.Parade	PW-22
7.	60	Station Diary	PW-23
8.	70	Spot Examination Report	PW-24
9.	71	Dog Squad Report	PW-24
10.	85	Report of the entry of the Station Diary	PW-25
11.	90 & 91	Arrest Memo	PW-26
12.	94	Demonstration Panchnama	PW-27
13.	97	Arrest Report of the accused Majubhai Alichandbha	PW-28

B. Defence :

Sr. No.	Exhibit Number	Description
1.	-	-

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
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D. Material Objects :

Sr. No.	Description of the Exhibit	Description
1	Muddmal Currency 6 Notes of Rs.100/- (Panchnama vide Exh.28)	PW-7
2	Muddmal Currency 1 Note of Rs.500/- and 4 Notes of Rs.100/- (Panchnama vide Exh.28)	PW-7
3	Muddamal Motorcycle No.GJ.20.P.5603 (Panchnama vide Exh.28)	PW-7
4	Muddamal Gold fork and two Silver bars. (Panchnama vide Exh.28)	PW-7

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

(1) It transpires from the record that all these matters arising out of the same FIR bearing Part - Ist C.R.No.99/2019. Learned Advocate for the accused has filed one application vide Exh.55 to consolidate the matters. In all these matters common question of law and facts are here. Hence, in order to avoid conflicting decision, waste of time and hardship to the parties, all these matters were ordered to be heard and decided as consolidated to be heard and decided as consolidated and common evidence is recorded in Session Case No.43 of 2022 as per the order passed below Exh.55. Accordingly, all these matters have been heard together and disposed of by this common judgment.

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

That, Complainant Rakeshbhai Rameshbhai Ravat has filed the complaint with Limkheda police station on 05.10.2019 being Ist C.R.No.99/2019 for the offence punishable under Section – 395 of I.P.C, by stating that on 04.10.2019, complainant and his family members were sleeping and at about 02:30 hours in the night complainant wake up for urinate and at that time two person came with the open fact holding in the hand arrow, spear and sticks and there-after, other five to six persons came by covering their faces and fell down the complainant and blanket was draped over him and entered into the house of the complainant and break the vault and boxes in the house of the complainant. There-after, robbers came to the complainant and took the silver chain, one silver ring and one mobile of the complainant and fled away. There-after, complainant entered into his house and shown that goods of the house and shops lying here and there and robbers have commission the loot of the cash, gold and silver ornaments and mobile from the house and shop of the complainant. There-after, one Maganbhai Kalubhai Ravat also came to the house of the complainant and told that robbers have also committed the loot of cash, gold and silver ornaments of his house. The robbers came in the night by covering their faces and therefore, complainant not identified them. Robbers committed the loot of cash, gold and silver ornaments, mobiles in total of Rs.74,200/- from the house as well as from the shop of the complainant. There-after, complaint was registered against the unknown persons.

(3) During the investigation, the Investigating Officer recorded statements of witnesses, prepared the panchnama of scene of offence. During the investigation the name of the accused have emerged. Investigating Officer arrested the accused, by way of discovery panchnama under Section 27 of the Evidence Act. As there was sufficient evidence, he has submitted the charge-sheet before Additional Chief Judicial Magistrate, Limkheda.

(4) 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, these cases were committed under Section-209 of the Code of Criminal Procedure to the Sessions Judge, Dahod at Limkheda, hence, this sessions cases are tried before this Court.

(5) After that Court has framed the charges against the accused at Exh.06 in Sessions Case No.43 of 2022, at Exh.13 in Session Case No.14 of 2021 and at Exh.10 in Sessions Case No.12 of 24, which were read over to the accused in the open Court, in which, they have denied the charges, leveled against them and they have claimed for trial.

It is required to note here that accused Mukeshbhai Kalubhai @ Kaliyabhai Mohaniya in Sessions Case No.44 of 2023 not remained since long and Court has issued the warrant, the same were not served and accused has not found out since long and 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 in absence of accused person as per Section 335 of B.N.S.S. against the accused Mukeshbhai Kalubhai @ Kaliyabhai Mohaniya.

(6) During the Course of Trial, the prosecution has adduced the oral evidence as well documentary evidence as stated in the **Form “C”** in the title.

(7) After conclusion of evidence, the prosecution has closed evidence vide pursis Exh.99. On completion of the evidence of prosecution, further statements of accused under Section-313 of the Criminal Procedure Code were recorded, wherein incriminating evidence against the accused were read over for the explanation of the accused and during it, the accused replied that, the evidence is not true and false case have been filed against them as such they have not committed any offensive act. They have not preferred to examine anybody as a defence witness. There-after, I have heard the argument of both the parties.

It is pertinent to note that accused Mukeshbhai Kalubhai @ Kaliyabhai Mohaniya of Sessions Case No.44 of 2023 has not remained present before this Court, though this Court has issued the repeatedly warrant against the accused, but the same have not served, therefore, no further statement of accused under Section-313 of the Code of Criminal Procedure recorded.

(8) On perusal of the evidence produced by the prosecution no substantial evidence found from which that Court can convict the accused, therefore, if the matter kept pending for arrest warrant against the accused Mukeshbhai Kalubhai @ Kaliyabhai Mohaniya of Sessions Case No.44 of 2023 and if accused brought before the Court then also accused cannot be convicted on the basis of the evidence lead by the prosecution and therefore, in the interest of justice this matter is taken-up for the judgment in absence of the accused.

(9) 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 05/10/2019 at about 02:30 at Kundadha village, present accused and other absconded accused came to the house of the complainant holding the deadly weapons in the hand and committed the loot of cash, gold silver ornaments and mobiles worth Rs.74,200/-at the house as well as at the shop of the complainant and ran way and thereby committed the offence punishable under Section – 395 of the Indian Penal Code ?
2. What order ?

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

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

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

-: REASONS :-

POINT NO.1

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

EVIDENCE OF THE FIRST INFORMANT

(13) Here to prove the case, the prosecution has examined the complainant – Rakeshbhai Rameshbhai Ravat as (PW-1) vide Exh-16 (in main Sessions Case No.43 of 2022), whereby in examination-in-chief he deposed that incident occurred on 05.10.2019 at about 02:20 hours and at that time he and his family members were sleeping and at that time eight to ten person came holding their hands arrow, spear and sticks and blanket was draped over him by robbers and robbers entered in his house and break the vault and boxes in his house and committed the loot of cash, gold and silver ornament and mobiles of the complainant and witnesses worth Rs.74,000/- and fled away. There-after, he has filed the complaint. He has identified his signature in the complaint at Exh.17. He has further deposed

that he has identified two persons during the T.I.Parade.

During the cross-examination L.A. for the accused, he has admitted that he has not mentioned the body structure of the robbers ; he has not received the looted muddamal. He denied that on the day of incident he has not gone for the Garba. He has admitted that her mother dictated the complainant, he has further stated that he has dictated the complaint. He has admitted that after the one and half month police called him at Police Station and there-after at Mamlatdar Office. He denied that police has shown the accused in the police station. He has further admitted that he knew the Rameshbhai before this incident at her sister got married nearby house of the Rameshbhai. He has further admitted that half of the robbers were gagged. He stated that he went with village leaders to file a complaint. He further stated that when the Identity Parade conducted that time Mamlatdar and P.S.I. were also present. He also stated that during the incident his face was covered with quilt (Godadu) by the robbers. He also admitted that he can not identify the robbers if the robbers present in the Court.

(14) The complaint, produced at Exh.17 has given on 05.10.2019 as the incident occurred in the night at about 02:30 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.17, nowhere the name of the accused have been mentioned. Moreover, as the complainant (PW-1) has clearly admitted in his deposition that he has identified only two persons at the time T.I.Parade and one of them complainant has known earlier from the incident this he cannot identify other robbers, therefore the case of the prosecution cannot be proved beyond reasonable doubt against the accused.

EVIDENCE OF THE OTHER WITNESSES

(15) There-after, in this matter prosecution has examined witness **P.W.9** – Ushaben Prakashbhai Valvi at Exh.30, **P.W.10** – Ashaben Sanjaybhai Ravat at Exh.31, **P.W.11** – Sanjaybhai Rameshbhai Ravat at Exh.33, **P.W.19** – Maganbhai Kalubhai Ravat at Exh.47, **P.W.20** – Sumliben Maganbhai Ravat at Exh.48, **P.W.21** – Savitaben Dilipbhai Ravat at Exh.51, whereby in examination-in-chief they have deposed in the same line and supported the version of the complainant and mainly deposed that incident occurred in the night. They have admitted the occurrence of the incident. They have also admitted loot of the cash, gold and silver ornaments of the house and shop of the complainant. But, they have clearly stated that they have not identified the robbers 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 robbers or accused.

As these witnesses turned hostile and had retracted from their earlier statement, the Additional Public Prosecutor has cross - examined them at length, but nothing material for the prosecution has come forth.

(16) There-after, in this matter prosecution has examined witness **P.W.22** – Ghanshayam Jayantilal Patel at Exh.22, whereby in examination-in-chief he deposed that on 10.01.2020 he was performing his duty as incharge Mamlatdar and at that time he has received the yaadi for the identification parade of the two accused in the Ist C.R.No.99 of 2019. There-after, on 12.01.2020 he has carried out the identification parade as step by step and complainant has identified the two accused and at about 05:10 hours the procedure of the identification parade. During the cross-examination, he has admitted that he was the deputy mamlatdar at Limkheda and he was in charge of the Mamlatdar at the time of procedure of the identification parade. He has admitted that a persons nominated as panch, who came at Mamlatdar office for their work. He has also admitted that in the panchnama it is required to mentioned that at the time of panchnama police personnel have not remained present, but he has not made such type of entry into the panchanama.

This witness whereby in examination-in-chief want to

support the case of the prosecution, but as the complainant (PW-01), who is the star witness has in his cross-examination categorically admitted that he knew the accused Rameshbhai before the incident accused and therefore, solely relying on the identification parade accused cannot be convicted in absence of the corroborative piece of evidence more particularly other eye witnesses have not identified the accused at the time of incident and therefore there are no any useful purpose would be served by adopting the evidence of complainant and this evidence is not useful to prove the guilt of the accused-person.

EVIDENCE OF THE PANCH-WITNESS

(17) There-after in this matter the prosecution has examined panch witness **(PW-2)** Balvantbhai Naniyabhai Ravat vide Exh-18, panch witness **(PW-3)** Dhirsingbhai Javrabhai Patel vide Exh-21, panch witness **(PW-4)** Sureshbhai Maniyabhai Chauhan vide Exh.22, panch witness **(PW-5)** Raymalbhai Parvatbhai Patel vide Exh.24, panch witness **(PW-6)** Raysingbhai Tersingbhai Bhabhor vide Exh.26, panch witness **(PW-7)** Dilipbhai Pratapbhai Gamar vide Exh.27, panch witness **(PW-08)** Arvindbhai Babubhai Gamar vide Exh.29, whereby in examination-in-chief panch-witnesses have not supported the panchnamas. During the cross-examination by the Ld. Advocate for the accused, they have admitted that they have signed on prepared panchnamas. As they turned hostile, they have been cross-examined by the Addl. P.P for the State, but nothing material for the prosecution has come forth.

EVIDENCE OF POLICE WITNESSES

(18) There-after, in this matter prosecution has examined **P.W.12** Somabhai Ratnabhai Parmar vide Exh.34, **P.W.13** Karanbhai Bachubhai Damor vide Exh.35, **P.W.14** Harpalsinh Natvarsinh Ramlavat vide Exh.36, **P.W.15** Bharatbhai Savjibhai Bhabhor vide Exh.37, **P.W.16** Nileshbhai Galubhai Pargi vide Exh.38, **P.W.17** Shaileshbahi Ishwarbhai Desai vide Exh.42, **P.W.18** Niteshkumar Kanubhai Damor vide Exh.44, whereby in examination-in-chief they all have deposed in the same line and stated that on 08.01.2020 they were doing the patrolling work in the Dhanpur area and at that time two persons passing on the motorcycle from Amba Chokadi and the said people stopped and checked, these two persons were trying to escape and they have been cordoned and caught them and asked about the names and first person told his name as Rameshbhai Varsingbhai Ganava and other person told his name as Bharatbhai Motibhai Madod. While checking of the other person one silver ornament found out from the pocket and cash of Rs.900/- and prepared the panchnama. One motorcycle No.GJ.20.P.5603 has also recovered and one gold ornament also recovered from the accused Bharatbhai. They have handed over to the L.C.B. Dahod Branch. Investigating Officer has recorded their statements.

During the cross-examination, these witnesses have admitted that they left for the patrolling at about 12:00 hours from Dahod in the government vehicle and doing patrolling at

Limkheda to Dhanpur road and this road is very busy road and other shops also situated there. They have no personal knowledge about the private information ; they have not remembered the name and address of the panchas. They denied that they have not prepared the panchnama at the spot. They have also admitted that recovered muddamal has not been identified by the witnesses before the Mamalatdar.

EVIDENCE OF INVESTIGATING OFFICER

(19) There-after, in this matter prosecution has examined P.W.23 P.S.O. Masulbhai Bhimabhai Bhuriya, vide Exh-59, whereby in examination-in-chief he deposed that on 05.10.2019, he was performing his duty as P.S.O. Limkheda Police station at that time complaint was filed by the complainant before him and he has written the complaint as dictated by the complainant and registered the offence and forwarded the complaint towards the P.I. Shri V.P.Patel for the investigation. He has identified his signature on the station diary at Exh.60. During the cross examination by Ld .Adv. for the accused, he has admitted that in the complaint, complainant has not given description of the body condition of the accused. He has also admitted that at the time of filing of the complaint no bill has been produced.

(20) There-after, in this matter the prosecution has examined investigation officer (PW-24) Mr.Vasantkumar Prabhudas Patel vide Exh-69, whereby in examination-in-chief he deposed that in the year 2019, he was performing his duty as

P.S.I. at Limkheda Police Station, at that time, complainant has filed complaint before the P.S.O and P.S.O has registered the offence and he has conducted the investigation. He has prepared the panchnamas. He has recorded the statements of the witnesses. He has collected F.S.L. Team as well as the dog squad. He has collected the the spot examination report. There-after, he was transferred and P.I.Shri R.F.Bariya has further investigated in this offence.

(21) There-after, in this matter the prosecution has examined investigation officer (PW-25) Mr.Hareshkumar Parthibhai Karen vide Exh-84, whereby in examination-in-chief he deposed that in the year 2020, he was performing his duty as P.I. at L.C.B. Branch, Dahod, at that time he was patrolling with his staff and while he came at Limkheda, he received the private information that two persons will be came at Amba Chokadi, Limkheda to sell the stolen jewelry on the red colour Glamour motorcycle bearing registration No.GJ.20.P.5603. There-after, he called the two panchas and arranged the watch and at that time two persons came with the said motorcycle and police personnel stopped them and one person told his name as Rameshbhai Varsingbhai Ganava and other person told his name as Bharatbhai @ Bharto Moti Mandod and while took a search muddamal gold and silver ornaments and cash received from both the accused. During the cross-examination, he has admitted that he has received the private information while he was on the way. He has also admitted that he has not mentioned the serial number of the notes in the panchnama as well as the in the

statements of the witnesses. He has also admitted that he has not made verification in the RTO about the recovered muddamal motorcycle. He denied that he hasnot took the signature of the panch in the panchnama. He also denied that he himself written the statements of the witnesses as the witnesses as his staff members.

(22) There-after, in this matter the prosecution has examined investigation officer (PW-26) Mr.Bhavik Dineshkumar Shah vide Exh-89, whereby in examination-in-chief he deposed that in the year 2020, he was performing his duty as P.I, Limkheda Police Station, at that time P.I.Shri H.P.Karen arrested the two accused i.e. Rameshbhai Varsingbhai Ganava and Bhartabhai Motibhai Mando and he has conducted the further investigation. He has arrested the accused. He has carried out the identification parade before the magistrate. He has prepared the Demonstration Panchnama and there-after, he was transferred and further investigation was handed over to the P.I.Shri K.L.Patani. During the cross-examination, he has admitted that in the complaint name and description has not mentioned in the complaint. He has denied that he has prepared the panchnama in the police station. He has also denied that he has not recorded the statements of the witnesses as they dictated. He has admitted that no muddamal has been recovered from the present accused.

(23) There-after, in this matter the prosecution has examined investigation officer (PW-27) Mr.Mukeshbhai

Karshanbhai Chaudhary vide Exh-93, whereby in examination-in-chief he deposed that in the year 2020, he was performing his duty as P.I, Limkheda Police Station, at that time he has conducted the investigation of this offence. He has examined the investigation papers and he found sufficient evidence against the accused Majubhai Alichand @ Alising and accused Laljibhai Dhaniyabhai Bilval, he has filed the charge-sheet against these accused. There-after, he has arrested the accused Daliyo @ Gando Mohaniya. He has prepared the panchanama of the place of incident and after collecting the sufficient evidence against the accused Daliyo @ Gando Mohaniya, he has filed the charge-sheet. During the cross-examination, he denied that he has not prepared panchnama in presence of the panchas. He also denied that identification parade has not been carried out of this accused. He has admitted that he has not recorded the further statement of the complainant as well as the accused. He has further admitted that no muddamal has been recovered from the present accused. He denied that though there is no sufficient evidence against the accused, he has filed the false charge-sheet.

(24) 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.

EVALUATION OF ALL EVIDENCES :

(25) Considering the oral as well as documentary evidence on record, it is not in dispute that the names of the accused are 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 no muddamal has been recovered or discovered from the present accused.

(26) In view of the discussion of evidence as well as the law points, this Court has come to the final conclusion that, the prosecution has not proved point No.1 against the accused beyond reasonable doubt by following reasons :-

1. Names of the accused are not surface of the F.I.R. ;
2. In the oral evidence of complainant, he has identified two accused during the T.I.Parade, but at the same time he has admitted that in his oral evidence that he knows the accused Rameshbhai before the incident as sister of the

complainant got married nearby the house of the accused Rameshbhai, though he has not given name of the present accused in the complaint and in the complainant he has stated that he has not identified the robbers. Moreover, before the T.I.Parade complainant called at police station and there-after, he had gone at Mamlatdar office for the T.I.Parade. As per the evidence of the case Incident took place at night. Face of the robbers were gagged with cloth, not only that at the time of incident face of Complainant was also covered with quilt (Godadu) and T.I.Parade was done after the period of almost one and half month later. Moreover, during the T.I.Parade P.S.I. of the concerned Police Station was also present with Mamlatdar. In such circumstances, without any corroborative piece of evidence, only relying on the T.I.Parade court cannot convict the accused and Identity of the accused persons not proved beyond reasonable doubt.

3. Even more, there is also other eye witnesses of the offence but not a single witness shown the accused at the time of commission of offence.
4. There is no corroboration to the version of complainant by evidence of other eye witnesses.
5. Moreover, recovered muddamal have not been identified by the complainant as well as the witnesses before the Mamlatdar and muddamal have not been received by the complainant as well as the witnesses.

(27) 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

(28) 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 No.1 **Rameshbhai Virsingbhai Ganava**, No.2 **Bharat @ Bhaarto Motibhai Mandod** of Sessions Case No.43 of 2022, accused No.1 **Majubhai Alichandbhai @ Alsingbhai Mandod** and No.2 **Laljibhai Dhaniyabhai Bilval** of Sessions Case No.14 of 2021, accused **Daliyabhai @ Gando Kaliyabhai Mohaniya** of Sessions Case No.12 of 2024, accused **Mukeshbhai Kalubhai @ Kaliyabhai Mohaniya** of Sessions Case No.44 of 2023 are hereby acquitted from the charges of the offences punishable under **Section – 395** of the Indian Penal Code, which was registered before the **Limkheda** Police Station vide Ist C.R. No.99 of 2019.

2. Accused are 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. No muddamal order has been passed as other co-accused is yet to be arrested.
4. Accused are on bail. Their bail bond stands discharged.
5. Original Judgment to be kept in Sessions Case No.43/2022 and copy of the Judgment to be kept in Sessions Case No.14/2021, 12/2024 and with Sessions Case No.44/23.

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

Date: 30/06/2026

Place : Limkheda

Irfan

[MINAXI MAHESH SONI]
2nd ADDITIONAL SESSIONS JUDGE,
DAHOD AT LIMKHEDA
[Code No.GJ 00740]