

**IN THE COURT OF METROPOLITAN MAGISTRATE,
36th COURT, MUMBAI CENTRAL, MUMBAI.**

Case No.: 435/PW/2018

Exh. 4

The State of Maharashtra,
through Police Station Officer,
Bandra Railway Police Station,
Mumbai,

.... PROSECUTION

VERSUS

Kirtankumar Manubhai Solanki alias Ali
Abdul Khan alias Rajesh, Age 19 years,
R/o.: Beside Platform No. 1 of Bandra Terminus,
Bandra (E), Mumbai.
Platform No. 1, Bandra (W), Mumbai.

.... ACCUSED

**OFFENCE PUNISHABLE UNDER SECTION 379 OF THE
INDIAN PENAL CODE.**

Mrs. S. P. Shetty for the prosecution.
The accused in person.

JUDGMENT

(Delivered on 20th day of July, 2018)

The accused in the dock is charged with the offence punishable under section 379 of the Indian Penal Code.

2] Brief is stated the case of prosecution is that on 18.04.2018 at about 9.30 am the informant Mr. Mohammad Nadim Shaikh was boarding in up Churchgate fast local train. At that time his cash amount of Rs. 70,000/- (Seventy Thousand) was stolen by the accused. Therefore, he filed report with police

station Bandra (Railway). On the basis of his report and offence punishable under section 379 of the Indian Penal Code was registered against the unknown culprit vide Crime No. 921/2018. The Investigating Officer Mr. N. S. Chavan, Police Hawaldar, B. No. 275, Police Station Bandra (Railway) investigated into the matter. He recorded statements of the witnesses as per their says. Further, he seized cash amount of Rs. 27,500/- (Twenty Seven Thousand Five Hundred) from the possession of the accused and prepared seizure panchanama in presence of panch witnesses and after completion the investigation he chargesheeted the accused.

3] I framed the charge against the accused for the offence punishable under section 379 of the Indian Penal Code vide Exh. 2. The contents of charge were readover and explained to the accused, in vernacular. The accused pleaded guilty.

4] The points for determination alongwith my findings thereon :

POINT

FINDINGS

01) Whether the prosecution proved that the accused intending to take dishonestly cash amount of Rs. 70,000/- (Seventy Thousand) of the informant Mr. Mohammad Nadim Shaikh without his consent moved the same in order to such taking?

.... **Yes.**

02) What order?

.... **The accused is convicted.**

AS TO POINT NO. 01 :

5] The accused pleaded guilty. Therefore, the prosecution has proved that the accused has intending to take dishonestly cash amount of Rs. 70,000/- (Seventy Thousand) of the informant Mr. Mohammad Nadim Shaikh without his consent moved the same in order to such taking. Therefore, I answer point No. 01 in the affirmative.

AS TO POINT NO. 02 :

6] The prosecution has proved the guilt of the accused. Therefore, the accused is liable to be convicted. I heard the accused on the point of quantum of sentence. He submits that he is poor and orphan person. He further submits that this is his first offence. Therefore, he prayed for leniency. The Learned APP Mrs. S. P. Shetty submits that the accused has severely punished, as per the law.

7] The record goes to shows that the accused has committed the theft of intending to take dishonestly cash amount of Rs. 70,000/- (Seventy Thousand). Therefore, in my view, it would not just and proper to punish the accused, severely. Considering the submission of the accused, lenient view will have to be taken while imposing sentence. The seized cash amount of Rs. 27,500/- (Twenty Seven Thousand Five Hundred) already given to the informant Mr. Mohammad Nadim Shaikh on indemnity bond. Considering fact of the case in my view, the informant shall retained seized article, which is taken by him on indemnity bond and his indemnity bond will have to be cancelled, after appeal period is over. Hence, in these circumstances, in answer to point No. 02, I pass the order :

ORDER

(1) The accused Kirtankumar Manubhai Solanki alias Ali Abdul Khan alias Rajesh, R/o.: Beside Platform No. 1 of Bandra Terminus, Bandra (E), Mumbai is convicted for the offence punishable under section 379 of the Indian Penal Code and he is sentenced to suffer rigorous imprisonment for 06 (Six) Months vide section 241 of the Code of Criminal Procedure, 1973.

(2) Set off be given to the accused under section 428 of the Code of Criminal Procedure, 1973 from 13.05.2018 till date.

(03) The seized cash amount of Rs. 27,500/- (Twenty Seven Thousand Five Hundred) shall be retained by the informant Mr. Mohammad Nadim Shaikh, R/o.: Room No. 132, Sea Face, CHS Hanuman Nagar Carter Road, Khardanda, Near Coffee Day, Khar (W), Mumbai and his indemnity bond will be cancelled, after appeal period is over.

Sd/-

(S. R. Narwade)

Metropolitan Magistrate,
36th Court, Mumbai Central,
Mumbai.

Date : 20.07.2018