

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

Case No.: 251/PW/2018

Exh. 5

The State of Maharashtra,
through Police Station Officer,
Mumbai Central Railway Police Station,
Mumbai, **PROSECUTION**

VERSUS

Abdul Rehman Rahim Shaikh,
Age 47 years, R/o.: Mahatma Phule Nagar
Zopadpatti, Room No. 2/5, Hans Road,
In front of Dagadi Chawl, Byculla (W), Mumbai.
.... **ACCUSED**

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

Mrs. S. P. Shetty, APP for the Prosecution.
The accused in person.

JUDGMENT

(Delivered on 09th 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 17.12.2017 at about 7.30 am the informant Mr. Pratish Anand Mishra travelling in up Dadar local train. At that time his one wallet containing cash amount of Rs.2500/- (Two Thousand Five Hundred), SBI ATM Card and Identity Card of Special Bureau was stolen by the accused. Therefore, he filed report with police station Mumbai Central (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. 1561/2018. The investigating officer Mr. Sachin Lokhande, API, Police Station Mumbai Central (Railway) investigated into the matter. He recorded statement of the witnesses as per their says, further, he seized cash amount of Rs.500/- (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. 3. The contents of charge were readover and explained to the accused, in vernacular through Video Conference. The accused pleaded guilty.

4] The points for determination alongwith my findings thereon :

<u>POINT</u>	<u>FINDINGS</u>
o1) Whether the prosecution proved that the accused intending to take dishonestly one wallet containing cash amount of Rs.2500/- (Two Thousand Five Hundred), SBI ATM Card and Identity Card of Special Bureau of the informant Mr. Pratush Anand Mihsra without his consent moved the same in order to such taking?	 <u>Yes.</u>
o2) What order?	 <u>The accused is convicted.</u>

AS TO POINT NO. 01 :

5] The accused pleaded guilty. Therefore, the prosecution has proved that the accused has intending to take dishonestly one wallet containing cash amount of Rs.2500/- (Two Thousand Five Hundred), SBI ATM Card and Identity Card of Special Bureau of the informant Mr. Pratush Anand Mihsra 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 submit that this is his first offence. Therefore, he prayed for leniency.

7] The record goes to shows that the accused has committed the theft of one wallet containing cash amount of Rs.2500/- (Two Thousand Five Hundred), SBI ATM Card and Identity Card of Special Bureau. Therefore, in my view, it would not just and proper to punish the accused, severely. Though the accused did not submit anything in respect of quantum of sentence, in my view, considering facts of the case lenient view will have to be taken while imposing sentence.

8] During the course of investigation cash amount of Rs.500/- (Five Hundred) was seized. Considering fact of the case, in my view, the seized cash amount will have to be handed over to the informant Mr. Pratush Anand Mishra, after appeal period is over. Hence, in these circumstances, in answer to point No. 02, I pass the order :

ORDER

(01) The accused Abdul Rehman Rahim Shaikh, R/o. Mahatma Phule Nagar Zopadpatti, Room No. 2/5, Hans Road, In front of Dagadi Chawl, Byculla (W), Mumbai is convicted for the offence punishable under section 379 of 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.

(02) Set off be given to the accused under section 428 of the Code of Criminal Procedure from 13.03.2018 till date.

(03) The sentences passed in C. C. No. 251/PW/2018, 252/PW/2018 and 253/PW/2018 of Mumbai Central Railway Police Station, Mumbai shall run concurrently.

(04) The seized cash amount of Rs.500/- (Five Hundred) be handed over to the informant Mr. Pratush Anand Mishra, R/o.: D/1, Room No. 1210, New Hind Mill, Mhada, Cottan Green, Mumbai after appeal period is over.

Sd/-

(S. R. Narwade)

Metropolitan Magistrate

36th Court, Mumbai Central,
Mumbai.

Date : 09.07.2018