


MHNS220000812012 	Presented on : 21.05.2012
	Registered on : 21.05.2012
	Decided on : 21.05.2026
	<u>Duration</u> : <u>Y.</u> <u>M.</u> <u>D.</u> 14 00 00

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
MANMAD RAILWAY, DIST. NASHIK
[Presided over by Harish Bharat Pardeshi]

JUDGMENT

(Delivered on this 21st May of 2026)

RCC No. 43 / 2012

Exh. 326

Details of FIR	CR. No.04/2011, RPF Ahmednagar
Complainant/ Prosecution	The State of Maharashtra through Officer, RPF Sainagar Shirdi.
Represented by	Shri. A. K. Singh, APP for the RPF.
Accused	1. Sandip Sahebrao Vahadane, Age 27 years, Occ: Labour R/o: Ward No. 123, Puntamba, Tal. Rahata, Dist. A. Nagar 2. Deepak Virji Vadwange, Age 24 years, Occ: Labour R/o: Dhanote Galli, Puntamba, Tal. Rahata, Dist. A. Nagar 3. Shashikant Shahu Jagtap, Age 27 years, Occ: Labour R/o: Shrikrishna Nagar, Puntamba, Tal.

Rahata, Dist. A. Nagar

4. Amol Virji Vadwange,

Age 27 years, Occ: Labour

R/o: Shrikrishna Nagar, Puntamba, Tal.

Rahata, Dist. A. Nagar

5. Sardar Budhanbhai Shaikh,

Age 40 years, Occ: Labour

R/o: Sanjay Nagar, Puntamba, Tal.

Rahata, Dist. A. Nagar

6. Vitthal Bhaskar Kurhade,

Age 27 years, Occ: Labour

R/o: Near Railway Line, Shrikrishna
Nagar, Puntamba, Tal. Rahata, Dist. A.

Nagar

7. Rakesh Kailas Dargude,

Age 27 years, Occ: Labour

R/o: Shrikrishna Nagar, Puntamba, Tal.

Rahata, Dist. A. Nagar

8. Ravi Shahu Jagtap,

Age 27 years, Occ: Labour

R/o: Shrikrishna Nagar, Puntamba, Tal.

Rahata, Dist. A. Nagar

9. Digambar Savliram Pawar,

Age 33 years, Occ: Labour

R/o: Near Asha Kendra, Puntamba, Tal.

Rahata, Dist. A. Nagar

	<p>11. Kailas Laxman Dargude, Age 27 years, Occ: Labour R/o: Shrikrishna Nagar, Puntamba, Tal. Rahata, Dist. A. Nagar</p> <p>12. Sandip Dhondiram Gaikwad, Age 28 years, Occ: Labour R/o: Mahanubhav Ashram, Puntamba, Tal. Rahata, Dist. Nagar</p> <p>13. Sagar Dilip Thorat, Age 22 years, Occ: Labour R/o: Siddharth Nagar, Puntamba, Tal. Rahata, Dist. A. Nagar</p>
Represented by	<p>Shri. P. M. Sansare, counsel for accused No. 1,3,5,7,9 to 12 Shri. D. B. Desale, counsel for accused No. 2 & 4 Shri. A.D. Patil, counsel for accused No. 6 & 8</p>

Date of offence	26.11.2011
Date of FIR	26.11.2011
Date of Charge-Sheet	21.05.2012
Date of Framing of Charges	22.05.2012
Date of commencement of evidence	28.02.2025
Date on which judgment is reserved	-
Date of the Judgment	21.05.2026
Date of the Sentencing Order, if any	<u>Accused are acquitted.</u>

Accused Details

Rank	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.	Sandip Sahebrao Vahadane	27.11.2011	28.11.2011	U/s. 3(a) of RPUP Act 1966	Acquitted	Nil	Nil
2.	Deepak Virji Vadwange	27.11.2011	29.11.2011				
3.	Shashikant Sahu Jagtap	27.11.2011	29.11.2011				
4.	Amol Virji Wadwange	27.11.2011	01.12.2011				
5.	Sardar Budhanbhai Shaikh	29.11.2011	30.11.2011	U/s. 3(a) of RPUP Act 1966			
6.	Vitthal Bhaskar Kurhade	--	29.05.2012				
7.	Rakesh Kailas Dargude	06.12.2011	09.12.2011				
8.	Ravi Shahu Jagtap	--	21.05.2012				
9.	Digambar Savliram Pawar	20.12.2011	21.12.2011				
11.	Kailas Laxman Dargude	--	21.05.2012				
12.	Sandip Dhondiram Gaikwad	--	21.05.2012				

13.	Sagar Dilip Thorat	--	16.11.2015				
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LIST OF PROSECUTION/ DEFENCE /COURT WITNESSES

A. Prosecution:

RANK	NAME	Exhibit	NATURE
PW 1	Kameshwarnath Raghunath Tiwari	55	Complainant
PW 2	Razzak Hasan Saiyyad	57	Spot & Seizer Panch
PW 3	Naresh Manohar Mulchandani	58	Seizer Panch
PW 4	Pintu Sugal Das	59	Seizer Panch
PW 5	Arif Salim Shaikh	61	Seizer Panch
PW 6	Bhima Bhimanlal Sirpor	178	I.O.
PW 7	Gorak Dnyandeo Nemane	196	Seizer Panch
PW 8	Rashid Khan Hasan Khan	284	Witness
PW 9	Santoshkumar Hansaram Markam	287	Witness
PW 10	Baban Mahadeo Sali	301	Seizer Panch

B. Defence Witnesses:

RANK	NAME	NATURE OF EVIDENCE
-	-	--

C. Court Witnesses, if any:-

RANK	NAME	NATURE OF EVIDENCE
-	-	-

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS.

A. Prosecution:

SR.NO.	Description	Exhibit No.
1	Complaint	56
2	Spot & Seizer Panchnama	62,63,179,180,181,186
3	Shortage memo	184,185
3	Confessional statements of the accused no. 10,6,7, 11,13,12 respectively	183, 187 to 191
4	Statement of Rashid Khan	285
5	Railway receipt	286
6	Statement of Santoshkumar	287

B. Defence:

SR.NO.	Description	Exhibit No.
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C. Court Exhibits:

SR.NO.	Description	Exhibit No.
1	Charge	91, 153-A

D. Material Objects:-

SR.NO.	Description	Exhibit No.
1	Luggage Memo Register	Article A

J U D G M E N T

A trial has been conducted against the accused for the offence punishable u/s 3(a) of the Railway Property (Unlawful Possession) Act, 1966 (hereinbefore and after referred as 'the RPUP Act').

2] The complainant, Shri Kameshwarnath Raghunath Tiwari, was serving as a constable in the Railway Protection Force (RPF) at Puntamba Railway Station at the time of the incident.

On 26.11.2011 at approximately 21:25 hours, the complainant and his colleague, Constable Shri Harimohan Singh, were assigned duty at Puntamba Railway Station. While they were discharging their duties at the station, a goods train, specifically waggon No. ER-113514, was standing there loaded with 1275 sugar sacks/bags under invoice No. RRNO 212008518. As they were inspecting the said train, they observed 3-4 persons carrying sacks of sugar near 4th waggon counting from the engine, on the side facing platform No. 2. Upon spotting the complainant and his colleague, these persons boarded a Tata Magic vehicle parked outside Platform No. 2 and fled the scene.

At that juncture, when the complainant and his colleague inspected the area near the specific waggon of the goods train, they found several sacks of sugar lying on the ground. Accordingly, upon being informed of the incident by Inspector A.

Nagar, SIPF Shri Vijaykumar Tripathi arrived at the scene accompanied by personnel. They formally seized the 10 sacks of sugar lying there by preparing a panchnama (seizure memorandum) and took them into custody. The said seized sugar sacks bore the markings 'white crystal crop, year 2010-2011, Grade S-30, CHH Rajaram, Kolhapur (M.S.), best before 3 years, WETT 50 Kgs'.

Subsequently, acting on the instructions of Shri Tripathi, the entire team lay in ambush at that very location. Later, at 4:30 am on 27.11.2011, four persons arrived to retrieve the sacks of sugar lying there and were immediately arrested. Upon interrogation, the persons identified themselves as Sandip Vahadane, Deepak Virji Vadavange, Shashikant Shahu Jagtap and Amol Virji Vadavange. As admitted by them, they along with other accomplices, broke the seals of the railway waggon to steal the sacks of sugar contained within and returned to the site specifically to collect the sacks that had been left lying on the ground.

Subsequently, a written complaint came to be lodged against the accused, i.e., said persons, regarding the theft of the sugar u/s 3(a) of the RPUP Act, which had been in the lawful custody of the railways for transportation purposes.

3] Based on the aforementioned complaint regarding the incident, the RPF Officer, Ahmednagar, registered the crime

bearing No. 04/2011 against the accused and took up the matter for investigation. Upon perusal of the charge sheet, it is observed that Inspector Shri B.B. Sirpor of the RPF, Ahmednagar, worked as the Investigating Officer in this case. As directed by him in writing, and acting under his instructions, SIPP Shri. Tripathi visited the scene of the incident and duly prepared a panchnama (spot memorandum). All four persons, who had come at the spot to collect the sugar sacks that had been left lying on the ground as alleged, were arrested and taken into custody. Subsequently, the investigation of the said crime was transferred to him in accordance with the directions of the Divisional Security Commissioner, Solapur.

Thereafter, on 29.11.2011, accused No. 5, Sardar Budhanbhai, was arrested and 6 sugar sacks of the stolen sugar in the crime were seized following the preparation of a formal seizer panchnama. Additionally, the vehicle used in the commission of the offense bearing registration No. MH-17-T-2978 was seized.

A copy of the railway receipt pertaining to the relevant consignment alongwith the unloading particulars was obtained from the Satna Railway Office.

Subsequently, accused No. 6, Vitthal Kurhade, appeared before the investigating officer. Upon questioning him and acting on the information provided by him, the officers proceeded to the premises of M/s Swiss Trimurti Automobiles;

there, they formally took Rakesh Laxman Dargude and his father, Kailas Dargude, into custody along with 5 sacks of sugar allegedly stolen in the crime after preparing a panchnama (spot memorandum). Their confessional statements regarding the crime were duly recorded.

Similarly, accused No. 8, Ravi Shahu Jagtap, appeared before the officer and recorded a confessional statement admitting to having committed the crime in collusion with the other accused. Thereafter, the absconding accused No. 9, Digambar Pawar, and accused No. 10, Ashok @ Virji Vadavange, were arrested. The confessional statements of the said accused in relation to the crime were recorded. Subsequently, when accused Nos. 11 to 13 appeared before the officer and confessed to the crime, their confessional statements were also recorded.

Upon the conclusion of the investigation, a charge sheet was submitted to the court against the accused, as sufficient evidence was gathered establishing that certain accused had stolen a total of 21 sacks of sugar which were in railway custody for transportation.

4] My learned predecessor in office, after due procedure, was pleased to frame charges against all accused at Exh. 91, 153A for the offence punishable u/s 3(a) of the RPUP Act. It appears that the contents of the charge were read over and explained to the accused in the vernacular, to which they pleaded not guilty

and claimed to be tried. The incriminating portion of the prosecution's evidence was read over and explained by recording their statements u/s 313 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') at Exh. 308 to 319. The defence of the accused, gathered from the cross-examinations of prosecution witnesses and their answers to the statements u/s 313 of Cr.P.C., is of total denial and that they have been falsely implicated in the crime.

5] I have heard the arguments advanced by the prosecution represented by APP for the RPF Shri. A.K. Singh and the defence counsels Shri. P.M. Sansare, Shri. D.B. Desale, and Shri. A.D. Patil.

6] In view of present facts and circumstances of the case, following points arise for my determination and I recorded my findings thereon with reasons given herein under:

<u>Sr.No</u>	<u>Points</u>	<u>Findings</u>
1.	Whether the prosecution proved that on 26.11.2011 at approximately 21:25 hours, the accused in furtherance of their common intention, stole 21 sacks of sugar, weighing 1050 kg and valued at Rs. 28,350/—from goods Train bearing wagon No. ER 113514, which was standing at Puntamba Railway Station and thereby committed an offense punishable u/s 3(a) of the RPUP Act?	No

2	What Order ?	The accused are acquitted
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REASONS FOR FINDINGS

AS TO POINT NO. 1:

7] At the outset it would be proper to discuss the gist of the oral evidence brought on record by the prosecution. According to Shri Kameshwarnath Tiwari (PW 1), on 26/11/2011, he was working as a guard in the office of Ahmednagar RPF. On that day, he and another guard, Shri Harimohan Singh, were on duty at Pultamba Railway Station. Their duty was to check the load trains and accordingly, they both arrived at Puntamba at 09.17 pm by passenger train no. 51421. There was a Satna Special loaded train standing on platform C.2 of Puntamba Railway Station. They started observing from the engine of the said goods train. They spotted 10 bags of sugar lying down in front of the 3rd to 4th bogie, and 3 to 4 persons standing there ran away after seeing them. There was a door on the bogie of the said goods train that was open, and the sacks of sugar were taken out from that bogie. Following that, he informed the RPF office in Nagar of the incident. Accordingly, Shri. Tripathi along with other personnel came to the spot. They conducted a panchnama of the spot.

He deposed that he informed Shri Tripathi that 3-4 of the

persons had fled in a black and yellow Tata Magic car. Upon that, Shri Tripathi told them to let the sacks of sugar lie there and go hide. So they hid there. Thereafter, at around 04.30 am, 4 persons came and they were caught. The names of those four people were Sandeep, Amol, Deepak and Shashikant. They took said person to the RPF station along with seized sugar sacks with a view to taking action against them.

He further deposed that he filed a complaint about the incident. He identified his signature on the complaint and its contents as correct. He deposed that he could identify the sacks seized. They were white in colour and contained 50 kg of sugar per sack. He deposed that he could identify the accused and identified Sandeep Dhondiram Gaikwad, Sardar Udanbhai Sheikh, Deepak Badvange, and Sandeep Vadane, who were present in court on that day. However, citing the reason that five to six years had elapsed since the incident, he expressed his inability to identify the other accused.

He was extensively cross-examined by all three counsels representing the respective accused. During cross-examination, he gave negative answers to almost all the adverse suggestions put to him. He specifically denied that he deposed falsely that the accused had fled from there and again come and caught. He denied that no officer came from Kopergaon and no spot panchnama was conducted. Further, the defense attempted to cast doubt on the point by questioning him as to who was the

first to learn the accused's name. However, he stated that he had learned their names because the accused themselves had disclosed them. Further, with the objective of establishing that he was not on duty on the said day, he was examined regarding the inspection register and the relevant entries recorded therein at the pertinent time.

According to Razzak (PW 2), the police called him and obtained his signature on a document. He identified his signature. However, he stated that he was unaware of its contents. Likewise, PW 3, 4 and 7 deposed.

According to Arif Shaikh (PW 5), the incident happened about 5 years ago. But, he doesn't remember the exact date. Shri. Shirpor called him to his office. His colleague was Nandu Ijge. He asked him that sugar had been seized from a tempo from the accused and a panchnama of that tempo has to be done. The said tempo was standing behind the office bearing registration no. MH-17 T 4777. There were 3-4 person there. But he doesn't remember their names. The people from whom the sugar was seized were standing there. The police had prepared the panchnama and took his signature on it. He identified his signature on it and also contents.

He was cross examined on behalf of the accused. He stated he was familiar with the officer of the station as he works on many expressways. He said that he had to sign the Panchnama. The officer of the RPF took his signatures on two papers for two

minutes and told him that the Panchnama of the train is done. He further stated that he has identified it as it was written and bear his signatures. He stated many other vehicles were parked at the location where the alleged vehicle was shown to him. He does not know who owned the said vehicle. The text in the Panchnama was not written after asking him. He has merely signed it, and only the police can say whether the content within it is true or false.

According to Shri. Sirpore (PW 6), on 26/11/2011, he was working as an Inspector in the Railway Protection Force, Ahmednagar. At that time, Constable Shri. Kameshwar Tiwari had filed a complaint in police station. He deposed the goods train was loaded with sugar sacks to be taken from Kolhapur to Satna (Madhya Pradesh). The said train reached Puntamba railway station at 9.00 pm. The sugar sacks in the train were stolen. Some of the sacks were taken by the accused. On receiving information that the accused would come to the premises to take back the remaining sacks, Shri Tripathi and other personnel kept a watch. When some people came to take back the remaining sugar sacks lying at the spot, Shri Tripathi's team caught and detained them. Their names were Sandeep Vahadne, Amol Vadavange, Deepak Vadavange and Jagtap. Those were brought to RPF station. They confessed to the crime and accordingly, Shri. Tripathi recorded the confessional statements.

He further deposed that Shri Tripathi seized those 10 sacks in the presence of the Panch witnesses and accordingly, a Panchnama was prepared. He identified the signatures of Shri. Tripathi on seizer panchnama and confessional statements of the accused as he worked with him.

He further deposed that on 29.11.2011, his office superior handed over the said case to him for investigation. At that time, all the documents prepared/obtained during the inquiry/investigation by Shri Tripathi were handed over to him. He then on 29.11.2011, arrested accused Sardar Budanbhai Sheikh and 6 sacks of sugar were seized from his possession. These sacks were seized from a shop in Puntamba. He identified his signature on the seizer panchnama and its contents as true and correct. He then seized a vehicle, make Mahindra Alpha bearing registration no. MH-17-T-2978 and accordingly, prepared panchnama. The said vehicle was used to transport stolen sugar sacks. He identified his signature on the seizer panchnama and its contents as true and correct. The accused Sardar was taken into custody. He confessed to the crime and accordingly, statement was recorded before panch witness. He identified his signature on the seizer panchnama and its contents as true and correct.

He further deposed that the Divisional Security Commissioner, RPF formed a team to search for rest of the accused. The member of that team, Deputy Commissioner. Shri

Mina, had produced the accused Ashok Kadiwala before him. He was taken into custody and confessed to the crime. He identified his signature on the confessional statement and its contents as true and correct.

He further deposed that he obtained "Unloading Particulars" from the Chief Goods Inspector/CGS working at Satna Railway Station. In which it is mentioned that 21 sugar bags were short. The report of the Chief Goods Inspector/CGS i.e. shortage Memo was present on the file. He identified his signature on the report and its contents as true and correct. He also identified his signature on the unloading particulars and its contents as true and correct.

He further deposed that accused No. 6 Hade and 7 Dargude gave statements and on the basis of it, he seized 5 bags of sugar from the shop of a person named Dargude at Puntamba in the presence of witnesses and accordingly, a seizer report was prepared. He identified his signature on the seizer panchnama and its contents as true and correct. He recorded the confessions of accused no. 6 and 7. He identified his signatures on the statements and its contents as true and correct.

He further deposed that accused Kailas Dargude, Thorat and Gaikwad were granted anticipatory bail by the Hon'ble Sessions Court, Kopargaon. The said accused then appeared before him. During the interrogation, he recorded three separate confessions. He identified his signatures on the statements and

its contents as true and correct.

He further deposed that he seized a four-wheeler Tata from the possession of accused Kailas Dargude and accordingly, a Panchnama was prepared on 22.02.2012. He identified his signature on the seizer panchnama and its contents as true and correct. A total of 13 accused were taken into custody. One accused was absconding. He arrested accused no. 8 and 9.

During the investigation, he recorded the statements of the witnesses. The accused confessed that they stole the sacks of sugar from the railway bogies standing at Puntamba railway station at relevant time. After conducting a thorough investigation into the case and also from the Panchnama, seizer Panchnama, short Mamo, unloading certificate, he found that the accused stolen the said sugar sacks, hence he sent the record of the case to the court. He stated that as per the order passed by the court, the seized items in this case had been disposed of.

He was cross-examined on behalf of the accused. He stated that the sugar sacks consignment in question was booked from Kolhapur and was to be sent to Satna in the State of Madhya Pradesh. He showed inability to remember the names of the person who booked the sugar and the person to whom it was to be sent. He stated if a consignment is received with less goods, the person concerned informs the concerned railway administration about the less goods received. In such a situation, the railway administration compensates the concern trader. He

further denied that the trader at Satna who received less sugar had not complained about it anywhere. However, stated that the railway administration has not given any compensation to the trader concerned at Satna for receiving less goods. He failed to state whether he collected data as to which station the train "Satna Special" stopped after leaving Kolhapur, whether the seals on the wagons were checked or not. He stated he has not recorded the statement of the person from Kolhapur who had booked the sugar on the specific points of what was the quality and grade of the alleged stolen sugar. He could not say what grade/quality the seized sugar was. However, he stated the grade/quality is mentioned in the documents filed on record. He stated the unloading report does not clearly mention that the number of bags of sugar actually loaded in the wagon was as many as the bags were unloaded. He stated that wherever the train carrying goods stops, the RPF officers and employees check the seals affixed to the wagons. RPF also maintains a separate record of the goods train checked. However, he stated the extract of the register stating that the seal of the wagon of the said "Satna Special" train was broken is not available on file.

He further denied that all the Panchnamas he has prepared during the investigation are false and fraudulent. He denied that he has only taken signatures on the documents of the Panch/witnesses. He denied that no accused has voluntarily recorded his statement and confessed to the crime. He denied

that the statements of the accused appearing on the file admitting the crime were obtained by force and duress. He denied to have obtained consignment short memos through the concerned clerk in the Railway Department. He denied that the trader there did not receive less goods in the consignment originally sent to Satna and for the same reason that vendor did not make any complaint to the Railway Department or did not give any compensation/damage to those vendors through the Railway Administration. He lastly denied that he prepared false report and filed in the Court.

According to Shri Rashid Khan (PW 8), on 29/11/2011, he was working as the Chief Supervisor at the Goods Warehouse, Satna. On 30/11/2011, 28 B. M. N of TNG RMT to MTA load was placed on platform no. 1 for unloading. Its unloading was done in his presence. No complaint was received in this regard. On 01/12/2011, 14 CN wagons in the said load were placed on platform no. 1 for unloading. When the seal of the said wagon was checked, one door of wagon K. E. R. 113514 B. CN did not have a seal. Therefore, he gave a letter to the Railway Protection Force, Satna for conducting a panchnama in this regard. In accordance with the letter, Railway Protection Force Officer Shri. Virendra Singh came to the spot. In his presence, the unloading of the said wagon was done by a private porter. In it, 1,254 white sacks of sugar were received. All the sacks of sugar were of 50 kg weight. As per the railway remit dated

25/11/2011, 1,275 sacks of sugar were required to be received. However, in reality, 1,254 sacks of sugar were received. That is, 21 sacks of sugar were received less. In this regard, a panchnama was done. After that, he gave a memo to the Railway Security Force regarding the shortfall of 21 sacks of sugar. He identified his signature on the memo and its contents as true and correct. He had taken a note in the goods receipt book regarding unloading and shortage. A photocopy of the said book was certified and given to the Railway Security Force. He identified the signature on the photocopy Article A.

He further stated the Railway Protection Force, Ahmednagar came to him and recorded his statement. He identified his signature on the statement and also its contents as true and correct. He stated he had given a certified copy of the railway receipt to the Railway Protection Force. He identified his signature of the receipt and also its contents. He stated if he is shown the sacks of seized sugar, he could identify it. It had a private identification mark.

He further stated that the party in whose name the goods are, unloads the goods and takes them away. He stated the party in whose name the sugar sacks were sent, has not made any complaint to him regarding the shortage of sacks of sugar. He said if a claim is made against the railway administration, the party gives the shortfall memo. But there was no claim against the administration regarding the shortage of sacks of sugar by

the said trader/party. Apart from these, he has recorded negative answers to all the questions and suggestions put by the defense.

According to Shri Santosh Markam (PW 9), he was working as a constable in the post of RPF, Ahmednagar in the year 2011. On 29/11/2011, Shri Sirpar directed him to go to Satana to bring documents in Crime bearing No. 4/2011. Accordingly, he went to Satana. There he met Shri. Rashid Khan. He gave him his office letter. As per the content of the letter, he brought the unloading particulars of the load, the receipt, the shortage memo, the panchnama and the statement. He handed over said documents to the investigating officer Shri. Sirpore. He recorded a statement of Shri. Rashid Khan. He also identified the documents handed over to Shri. Sirpor and accordingly, his statement was recorded. He identified his signature on the statement and also its contents as true and correct.

He was cross examined on behalf of the defense. He stated the investigating officer has to sign the statement of the witness after recording it. He stated he recorded the statement of Rashid Khan, but it does not bear his signature. He stated that Shri. Sirpore had only asked him to bring documents. He was also informed about which documents to bring. He does not know whether there was any discussion between the Investigating Officer Shri. Sirpore and Shri. Rashid Khan about which

documents to bring. He was not instructed to record Rashid Khan's statement. He did not have the authority to record the statement. He stated the Rashid Khan's statement is in his handwriting. He wrote it down because Rashid Khan told him to do so. He denied that he never went to Satna and did not bring any documents from there as stated. Apart from these, he has recorded negative answers to all the questions and suggestions put by the defense.

8] This is what the prosecution has led its evidence on record. Now turning to the arguments advanced by the Ld. defence Counsel appearing for the accused and Ld. APP for the RPF. Ld. defence counsels argued that the accused cannot be held guilty on the basis of evidence brought on record by the prosecution. That there are material discrepancies in the testimonies of witnesses examined. That the IO have not played any role in the investigation and the confessional statements recorded in the crime are not admissible and also not prepared before the public and independent witnesses let alone the confessional statements are proved. That the prosecution failed to prove the spot and seizure reports and also the alleged sugar sacks belonged to or under the possession of the railway i.e. the prosecution failed to prove the ingredient of the offence alleged. The defence at last but not least argued that the prosecution failed to prove guilt of the accused beyond any doubt, therefore

the accused deserve for acquittal.

Per contra, Ld. APP has submitted that the prosecution has proved its case beyond reasonable doubt and examined all material witnesses cited in the list of witnesses and there is no iota of evidence to disbelieve the same. The accused simply denied the allegations and have taken a false plea that they have been implicated in this case therefore, the accused are liable to be convicted.

9] Before touching to the merits of the case it would be apposite to mention ingredients of section 3(a) of the Act. In order to prove the guilt of the accused u/s 3(a), the prosecution need to prove:

(i) the 'property' in question should be 'railway property';

(ii) it should reasonably be suspected of having stolen or unlawfully obtained; and

(iii) it should be proved that the accused was or had been in unlawful possession of such property.

10] Thus, the prosecution must first prove the alleged property was belonged to the railway or under the lawful possession. According to the prosecution's case, a consignment of sugar had arrived from Kolhapur for Satna (MP) by goods train. While the said train was halted at Puntamba station, a total of 21 sacks of sugar, weighing 1,050 kg and valued Rs. 28,350 in total were stolen from Wagon No. ER 113514. In order to prove the facts of

consignment of sugar arrived from Kolhapur for Satna by concern train, the prosecution relied on the oral evidence of complainant Shri Kameshwarnath Tiwari (PW 1), Shri. Sirpor (PW 6), Chief Supervisor, Goods Shed, Satana Shri Rashid Khan (PW 8), Chief guard Shri Santoshkumar Markam (PW 9). In the oral evidence of these witnesses, they explicitly deposed that the said train had arrived from Kolhapur carrying sugar.

11] The defense with the objective of establishing that the complainant (PW 1) was not on duty on the relevant day, cross-examined him regarding the inspection register and the relevant entries recorded therein at the pertinent time. It is to be noted here that there exists a presumption regarding official acts in view of the Evidence Rules and therefore, the onus to rebut this presumption lay with the defense, as they raised objections against it. However, the defense failed to bring any prima facie material on record to rebut it.

12] The defense also attempted to raise the contention that the sugar in question had not been handed over to the Railways for transport. However, apart from putting leading questions to the witnesses, nothing substantial regarding this matter was brought on record. The evidence adduced by the prosecution the railway receipt of the consignment (Exh. 286), unloading certificate and shortage memo (Exh. 185, 187) on record clearly establishes that, at the said time, the concerned Railway held

legal custody of the 1275 sugar sacks for the purpose of transporting it from Kolhapur to Satna.

13] In view of the above discussions, there is no impediment to presuming that, at the relevant time, the Railway had legal custody of the said sacks of sugar or the goods in question for the purpose of their transportation and of those, 21 sacks were stolen or missing as alleged by the prosecution. Now, it is essential to prove that 21 bags of sugar allegedly stolen from the said goods was stolen by the accused or the bags were seized from their possession as alleged by the prosecution.

14] As discussed above in the testimony of the prosecution witnesses, during a routine patrolling, the complainant and the companion observed 10 sacks of sugar lying on the ground near three to four railway bogies. At that moment, upon spotting them, three to four persons fled the scene and escaped in a black-colored vehicle parked a short distance away. When they reported this matter to their superiors, the latter arrived at the location and conducted the spot panchnama of the fallen sugar sacks. Subsequently, acting on the instructions of their superior, they took up a concealed position near the 10 sacks of sugar lying on the ground. Later, accused Sandip, Amol, Deepak and Shashikant arrived at the spot and arrested. However, the testimony of the said witness contains no statement indicating whether or not the said accused made any move to pick up and

carry away the fallen sacks of sugar. It is true that PW 6 deposed that said accused come to pick up and carry away the fallen sacks. However admittedly, he was not present at the scene at the relevant time and the prosecution failed to examine Shri. Tripathi, who was allegedly present at that time.

15] According to the complainant (PW 1), he had not initially seen the persons (3-4) who had fled the scene. Consequently, nothing has been placed on record to establish that the persons who fled and who are alleged by the prosecution to have caught by making trap were, in fact, these very persons. Further, according to the prosecution's story, a spot panchnama of the crime scene was conducted in the presence of witnesses prior to the apprehension of the said accused. This implies that the said panch witnesses were either available at the location at the time of the said accused' arrest, or that there is a possibility that they were present there during the arrest. However, nothing regarding this has been placed on record nor has any panchnama pertaining to the arrest of the said accused been brought on record or substantiated.

16] Based on the complaint (Exh. 56), it appears that the complainant has lodged a complaint solely against the four accused mentioned above. Accordingly, the initial investigation was conducted by Shri. Tripathi and subsequently, the investigation was handed over to Shri. Sirpor. He then arrested

accused no. 5 Sardar Budhanbhai and seized 6 sacks of the stolen sugar involved in the crime from him following the preparation of a panchnama. To establish that the said sacks of sugar was among the stolen sacks, the prosecution has placed reliance on the seizure panchnama at Exh. 180. Upon perusal of the said panchnama, it is noted that the seized sacks of sugar bore the inscription: 'white crystal crop, year 2010-2011, Grade S-30, CHH Rajaram, Kolhapur (M.S.), Best before 3 years, WETT 50 Kgs'. A similar writing is also noted in the panchnama at Exh. 179. However, there is no basis apart from the relevant panchnamas (memorandum of seizure) to presume that the seized sacks of sugar were among those that had been stolen or found to be short in quantity. It is nowhere stated that the sugar handed over to the Railways for transportation bore any specific identifying marks. The aforementioned witnesses have stated in their testimony merely that there were private marks on the said sacks of sugar.

17] The records indicate that the said sugar was dispatched by a private individual from Kolhapur. However, Shri. Sirpor (PW 6) stated in his cross examination that he has not recorded the statement of the person from Kolhapur who had booked the sugar on the specific points of what was the quality and grade of the alleged stolen sugar. He could not say what grade/quality the seized sugar was. It does not appear that any evidence

specifically pertaining to the quality or other specification of seized sacks of sugar was placed on record nor is any other corroborative evidence regarding the fact available on the record. Apart from oral evidence and seizer panchnamas, nothing is available to presume that the 6 sacks of sugar seized in the case and the subsequent 5 sacks which were allegedly seized from accused Rakesh Laxman Dargude and Kailas Dargude, were among them. Further, as mentioned above, the panch witnesses to the seizure did not help the prosecution, they turned hostile.

18] Further, it appears that first of the aforementioned panchnama was prepared by Shri. Tripathi or drawn up in his presence. However, as noted above, the prosecution has failed to record his testimony. The said panchnama has been marked pursuant to the provisions regarding secondary evidence after witness no. 6 identified Shri. Tripathi's signature thereon. Under the certain provisions of the Indian Evidence Act, secondary evidence by identifying a signature on a document is admissible only if the person signed the document has passed away, or is unable to appear in court due to certain reasons, or is unable to testify. It does not appear that the prosecution has demonstrated the existence of such circumstances in the present case. Furthermore, the witnesses to the said both panchnamas also did not support the prosecution.

19] Ld. APP for the RPF argued that the accused themselves admitted their guilt by giving confessional statements. Per contra, Ld. Defense counsels argued that the confessional statements before the Railway Police is not admissible and same were not prepared before the public and independent witnesses. So also the prosecution failed to prove it. On this point reliance can be placed on the observations of the Hon'ble Apex Court in a case of **Balkishan A. Devidayal Vs. State of Maharashtra and ors.**, reported in AIR 1981 SC 379. It is observed in para 57 as under:

*57. In the light of the above discussion, it is clear that an officer of the RPF conducting an enquiry under Section 8(1) of the 1966 Act has not been invested with all the powers of an officer-in-charge of a police station making an investigation under Chapter XIV of the Code. Particularly, he has no power to initiate prosecution by filing a charge-sheet before the Magistrate concerned under Section 173 of the Code, which has been held to be the clinching attribute of an investigating 'police officer'. Thus, judged by the test laid down in *Badku Jyoti Savant's*, which has been consistently adopted in the subsequent decisions noticed above, Inspector Kakade of the RPF could not be deemed to be a 'police officer' within the meaning of Section 25 of the Evidence Act, and therefore, any confessional or incriminating statement recorded by him in the course of an inquiry under Section 8(1) of the 1966 Act, cannot be excluded from evidence under the said section.*

20] Thus, a confessional statement made to an RPF officer is admissible as evidence, but only under specific conditions, as RPF officers are not considered "police officers" under the Evidence Act. In order to prove the confessional statements (Exh. 187 to 191), the prosecution examined witness Shri. Sirpor (PW 6), who alleged to have recorded the confessional statements before witnesses Prakash Shinde, Raju Ghuge (Exh.187) of accused No. 6, Kadar Ahemad Shaikh, Devidas Ganpat Janrao (Exh.188) of accused no. 7, Sanjay Prakash Todkar, Vikaram Singh Sonawane of accused no. 8, Shivpuch Sharnappa Belekar, Anil Vaman Bhingardive (Exh. 183) of accused no. 9 & 10, Akbar Gaffar Shaikh, Raju Virendra Singh (Exh.189) of accused no. 11 and Raju Vitthal Ghuge, Vikaram Prkash Singh (Exh.191, 190) of accused no. 12 & 13 . He deposed that he called said witnesses and recorded the accused' confession in their presence. However, as mentioned above, the Panch witnesses examined regarding the scene of the incident, the seizures and the confessional statements turned hostile to the prosecution or the prosecution failed to examine some certain witnesses. Furthermore, initial I.O. Shri. Tripathi was not examined or succeeded to examine by the prosecution. Consequently, the confessional statements of the rest of the above accused were not exhibited. Furthermore, it appears that the said panch witnesses are, in one way or another, associated

with the Railway Protection Force or have had dealings with them.

21] As discussed above, a confessional statement made to an RPF officer is admissible as evidence. However, for it to be admitted, it must be given voluntarily, without coercion and ideally in the presence of public witnesses. Failure to join or examine public witnesses can raise suspicion about the statement's voluntariness, potentially leading to its exclusion by the court. Thus the prosecution evidence is lacking on the most vital aspects; even evidence on basic ingredients of the offence is absent. Apart from these, there are discrepancies seen in the prosecution's evidence, which created doubt in the prosecution story.

22] Based on the available evidence on record, it can be said that the prosecution has failed to prove the accused committed theft of 21 sacks of sugar, that the said stolen sacks of sugar were seized from their custody as alleged by the prosecution, or that the accused tendered the confessional statements admitting to the alleged theft or their guilt beyond reasonable doubts. In cumulative effect of above discussions, I have answered point no. 1 in the negative.

AS TO POINT NO. 2 :

23] In view of negative finding of point no. 1, the accused deserve for acquittal. The accused have not furnished bail bonds

in view of provisions of section 437-A of Cr.P.C. Resultantly, the following order:

ORDER

- 1] The accused are acquitted of the offence punishable u/s 3 (a) of the RPUP Act vide section 248(1) of Cr.P.C.
- 2] The bail bonds of the accused stand canceled.
- 3] The supurdnama bonds stand canceled.
- 4] The accused are directed to furnish bail bonds in compliance of the provisions of section 437A of Cr.P.C.

Date- 21.05.2026

Sd/--
(H.B.Pardeshi)
**Judicial Magistrate F. C.,
Railway Court, Manmad.**

-: C E R T I F I C A T E :-

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/Order:

(a)	Name of the Typist	:	S.A. Pathan (Jr. Clerk)
(b)	Court name and designation	:	Railway Court, Manmad
(c)	Judgment / Order pronounce on	:	21.05.2026
(d)	Judgment /Order signed by P.O. on	:	21.05.2026
(e)	Judgment /Order uploaded on	:	21.05.2026