

**In the Court of Sh. Ashwani Kumar Sarpal, Principal District &  
Sessions Judge, East District, Karkardooma Courts, Delhi.**

(SC no. 44260/15)

**State vs. Sanjay Kumar Jha and Ors.**

FIR no. 75/2011

Under Section 395/397/412/120-B IPC

Police Station-Shahdara

Date of institution---30-07-2011

Date of decision-----31-01-2026

\*\*\*\*\*

**JUDGMENT:-**

- 1) In this case, the final arguments were heard by me, when I was working in North East District as Principal District & Sessions Judge and reserved the matter for passing of judgment for today. However, vide order no. 01/D-2, Gaz.IA/ DHC/2026 dated 16-1-2026, I was transferred from North East District to East District. As per this order of Hon'ble High Court, I have to pass judgment/order in those cases, where the same are already reserved by me despite transfer or

joining at new place of posting.

**Charges framed**

- 2) Out of five accused persons, one of the accused namely Akram (A-3) expired during pendency of the case, so proceedings against him were abated on 20-1-2015. On the basis of prosecution allegations, my Id. Predecessor vide order dated 14-12-2011 framed charges u/s 120-B IPC, Section 395 read with Section 120-B IPC against all the accused persons for committing dacoity after entering into conspiracy. Further separate charges u/s 397 IPC were framed against accused Dilshad (A-2), Akram (A-3) and Shamsheer (A-5) for using the weapons during commission of offence. Another separate charges u/s 412 IPC were framed against all the accused persons for recovery of cash and jewellery which was looted during dacoity. All accused persons pleaded not guilty.

**Prosecution case**

- 3) It is alleged by the prosecution that IO SI Kapil Kumar along

with Constable Prakash on receipt of DD no. 19-B dated 1-3-2011 reached house no. D-4, Gali no. 8, Jyoti Colony, Shahdara, Delhi, where complainant Smt. Shakuntla met them. IO found that locks of almirahs lying on first and second floor were broken and articles kept in it were lying scattered. Complainant Smt. Shakuntala gave statement that on 1-3-2011 at about 8.05 a.m., she was alone in her house and had gone on the roof for some work. Her husband Kalka Singh had gone to drop his grandson to school. When she came down, she saw three unknown persons had already entered in her house and committed theft of cash and jewellery lying in the almirahs after breaking its locks. One of those persons was having knife like thing in his pocket, so she could not resist. After committing theft, those three persons left the house. Complainant also stated in her statement that she could identify two persons out of three and will give the list of stolen cash and jewellery lateron. On the basis of this statement, IO got the case registered u/s 382/34 IPC by sending rukka at 11 a.m. Duty officer in police station registered FIR at 11.30 a.m.

- 4) IO called the crime team at the spot which took photographs and lifted 9 chance finger prints. Complainant Smt. Shakuntala further gave statement that those unknown culprits had detained her on the basis of weapons and committed robbery and she could not give proper statement earlier due to nervousness. She also informed that cash and jewellery belonging to her daughter Reshma (transgender) was looted by the culprits. IO also recorded statement of Sh. Kalka Singh, husband of the complainant, who stated that when he entered the house, robbers detained him by showing weapons and ran away with cash and jewellery belonging to his daughter Reshma, who could tell the details of the cash and jewellery items. On the same day, Reshma daughter of complainant informed the police and gave details that cash of Rs. 32 lakhs in the form of currency notes of Rs. 1,000/- and Rs. 500/- along with gold, diamond and silver jewellery belonging to her was taken by robbers. Despite efforts, IO could not find the robbers or the looted articles.
- 5) On 1-5-2011, accused Sanjay Kumar Jha (A-1) was apprehended by Special Cell staff, Lodhi Colony vide

Kalandra under Section 41.1 (a)/102 Cr.P.C. and cash Rs. 1,40,000/-, one gold chain, one gold ring and one motorcycle was recovered from him. The motorcycle recovered from him was used in the commission of offence. Accused Sanjay Kumar Jha (A-1) confessed that on receipt of tip about two months back from Bobby and his wife Sonu (A-4) of existence of huge cash and jewellery belonging to Reshma lying in the house of complainant, he along with co-accused Dilshad (A-2), Akram @ Pappu (A-3 since deceased), Shamsheer (A-5) and one Karan @ Paneer Wala committed the offence and looted cash of Rs. 32 lakhs and jewellery. He also confessed that he gave Rs. 1 lakh to co-accused Sonu (A-4), Rs. 50,000/- to one Raju Langda and kept Rs. 8 lakhs, gold chain and ring with him.

- 6) Accused Sanjay Kumar Jha (A-1) was arrested in this case but Smt. Shakuntala and Sh. Kalka Singh could not identify him in TIP. As per prosecution, he was not inside of the house but was standing outside at the time of commission of offence to keep watch of surroundings, so that is why he could not be identified.

- 7) During investigation, it was found that accused Dilshad (A-2) and Akram @ Pappu (A-3 since expired) were lodged in Muzzafar Nagar jail. They were called through production warrants and were arrested on 12-5-2011 with permission of the court. During interrogation, they also confessed about committing the offence with other co-accused persons. They also disclosed that they had reached house of complainant on three motorcycles. Accused Sanjay (A-1) stood in the street to keep watch, whereas they along with Shamsheer (A-5) and Karan @ Paneer wala entered in the house, overpowered both complainant and her husband and after committing robbery ran away. Accused Dilshad (A-2) was identified by both complainant Smt. Shakuntala and her husband Sh. Kalka Singh in TIP held on 13-3-2011, whereas accused Akram (A-3) was not identified by Smt. Shakuntala in TIP proceedings but was correctly identified by Sh. Kalka Singh.
- 8) Accused Sonu (A-4) was arrested at the instance of accused Sanjay Kumar Jha (A-1) on 13-5-2011 from whom Rs. 30,000/- cash, one pair of stolen silver Pajeb was recovered

from her residence. From the house of accused Dilshad (A-2) sum of Rs. 25,000/- and from the house of Akram (A-3) cash of Rs. 50,000/- and one stolen gold ring was recovered on 18-5-2011 in Muzzafar Nagar. Out of 9 chance finger prints lifted from spot, 8 were found matched with the finger and palm prints of accused Dilshad (A-2). Accused Shamsher (A-5) was also arrested on 5-7-2011 at last from whose possession one motorcycle and one stolen gold ring was recovered. He refused to participate in TIP proceedings. All recovered jewellery items (i.e. 2 gold rings, 1 gold chain and 1 pair of Pajeb) were identified by Reshma during TIP proceedings. Accused Bobby and Karan could not be found.

- 9) In order to prove its case, prosecution examined total 21 witnesses whereas accused persons did not opt to lead any defence evidence. However, they admitted recording of TIP of persons and case property by Magistrates by giving statements u/s 294 Cr.P.C. on 26-7-2024 and 9-8-2024. I have heard ld. Chief PP for State, counsels for accused persons and gone through the record. During arguments, ld. Chief PP submitted that prosecution though could not conclusively prove the

identity of the accused persons having committed dacoity but atleast due to recovery of looted articles from them, they can be convicted under Section 412 IPC.

**Evidence led by prosecution**

- 10) The statement of PW-1 Smt. Shakuntla, complainant was partly recorded in examination in chief but she expired, so her part statement cannot be read in evidence. PW-3 Sh. Kalka Singh in his statement deposed how and in which manner dacoity took place in his house as well as that he participated in TIP proceedings of 4 accused persons.
- 11) PW-12 HC Anamika Singh working as DD writer in police station proved receipt of information about PCR call at about 9.35 a.m. on 1-3-2011 regarding theft in the house of complainant and recorded DD no. 19-B Ex. PW12/A in this regard. PW-2 W/HC Shashi, duty officer in police station after receipt of rukka sent by IO PW-13 SI Kapil Kumar through PW-5 Ct. Prakash, registered FIR under Section 382/34 IPC and proved copy of same as Ex. PW-2/A as well as her endorsement Ex. PW2/B made on the rukka.

- 12) PW-4 SI Rajender Singh and PW-10 ASI Sanjay Kumar both posted in Mobile Crime Team, North East as Finger Print Proficient and photographer visited the spot of incident on 1-3-2011. PW-4 lifted 9 chance prints from two almirahs lying in broken condition and sent to Finger Print Bureau whereas PW-10 took 8 photographs of crime scene Ex. PW-10/1 to Ex. PW-10/8.
- 13) PW-16 Retd. Inspector Cum finger print expert Sh. N. K. Sharma examined specimen finger print and palm print of accused persons along with nine chance prints found from the spot by PW-4 and gave report Ex. PW-16/A which says that 8 chance prints were found matched with the specimen finger and palm prints of accused Dilshad (A-2).
- 14) PW-13 SI Kapil deposed that on 1-3-2011, on receipt of DD no. 19B Ex. PW12/A regarding theft, he alongwith Ct. Prakash (PW-5) reached at the spot, recorded statement of Smt. Shakuntla as Ex. PW-13/A, prepared rukka Ex. PW-13/B and sent it through Ct. Prakash (PW-5) to police station for registration of FIR at about 11 a.m. He called crime team at

the spot which took photographs and chance prints from spot. He also received the report of crime team which is Mark PW13/X-1. After receipt of copy of FIR from police station, he prepared site plan Ex. PW13/C. He further deposed that he tried to search accused persons but could not find. Later on the investigation was done by SHO Inspector Rakesh Kumar Sharma. PW-5 Ct. Prakash also deposed the same thing being accompanied with the IO.

- 15) PW-7 Lady Ct. Priyanka and PW-20 ACP Rakesh Kumar Sharma deposed that accused Sanjay (A-1) took police team towards house no. C-55, Bhagirathi Vihar, Gokal Puri on 13-5-2011 where accused Sonu (A-5) was arrested vide Ex. PW-7/A and her personal search memo and disclosure statement vide Ex. PW-7/B and Ex. PW-7/C were prepared. Accused Sonu (A-5) got recovered one pair of silver colour Pajeb and cash amount of Rs. 30,000/- from one box (Sanduk) and described the same as part of the robbed articles, which were sealed and taken into possession vide seizure memo Ex. PW-7/D.
- 16) PW-8 Ct. Manjeet deposed that on 2-5-2011, he alongwith IO PW-17 Inspector Subhash after receipt of DD no. 31-B

reached Karkardooma Court, where SI Rahul Sawhney from Special Cell met, who handed over the photocopy of kalandra vide DD no. 7 dated 1-5-2011 regarding arrest of the accused Sanjay Kumar Jha (A-1) to the IO. Thereafter, Inspector Subhash PW-17 moved an application before the court of ACMM for seeking permission to arrest and interrogation of accused Sanjay Kumar Jha (A-1). Both these witnesses PW-8 and PW-17 proved the arrest and personal search memo of accused Sanjay Kumar Jha (A-1) as Ex. PW-8/A and Ex. PW-8/B as well as his disclosure statement Ex. PW-8/C. IO PW-17 also moved an application for TIP of accused A-1 and got it conducted on 5-5-2011 but complainant and her husband could not identify him.

- 17) PW-9 HC Vinod Kumar and IO Inspector Rakesh Kumar Sharma (PW-20) deposed that accused Sanjay Kumar Jha (A-1) identified the spot of incident/house of complainant on 12-5-2011 vide pointing out memo Ex. PW9/A. They also proved that on 5-7-2011 accused Shamsheer (A-5) was apprehended at Y Block, Mangolpuri, Delhi who disclosed about his involvement in the commission of offence and also produced

one gold ring after removing from his own finger being part of the looted jewellery which was seized vide Ex. PW-9/B and sealed. One motorcycle bearing no. DL-5SS-9309 was also seized vide seizure memo Ex. PW-9/C which was used at the time of incident as per accused Shamsheer (A-5). Both witnesses PW-9 and PW-20 ACP Rakesh Kumar Sharma have also proved disclosure statement, arrest memo and personal search memo of accused as Ex. PW-9/D, Ex. PW-9/E and Ex. PW-9/F respectively.

- 18) PW-10 ACP Neeraj Kumar from Special Staff (who is to be now mentioned as PW10A as inadvertently same number PW-10 was given to two witnesses) has deposed that on 1-05-2011 at about 3.30 p.m., he alongwith 13 other officials on basis of secret information had arrested accused Sanjay Kumar Jha (A-1) near Aggarwal Sweets shop, Khajuri Chowk under Section 41.1(A)/102 Cr.P.C. He proved arrest memo, personal search memo and disclosure statement of accused Sanjay Jha (A-1) as Ex. PW-10/A, Ex. PW-10/B and Ex. PW-10/C respectively. He also proved seizure memo of motorcycle bearing no. DL-4SBL-6171 as Ex. PW-10/D. He further deposed that pursuant

to disclosure statement, accused got recovered Rs. 1,40,000/- one gold ring and one gold chain which were seized vide memo Ex. PW-10/E. PW-15 Inspector Rahul Sawhney official from Special Cell deposed on the same lines as deposed by PW-10.

- 19) PW-11 SI Khem Chand deposed that he joined the investigation on 18-5-2011 with PW-20 Inspector Rakesh Kumar Sharma and other police staff. He further deposed that accused Akram @ Pappu (A-3 since deceased) and Dilshad (A-2) led the aforesaid police officials to house of complainant/crime spot where they had committed robbery about 2½ months ago. He has proved the pointing out memo Ex. PW-11/A. He has further deposed that accused Akram @ Pappu and Dilshad also led the police party to a house in *transformer wali gali* in Muzaffar Nagar from where A-4 got recovered Rs. 50,000/- and gold ring from a trunk lying in the house which were seized and sealed vide memo Ex. PW-11/B. PW-11 further deposed that accused Dilshad also got recovered Rs. 25,000/- from inside the double bed lying in another room which were seized and sealed vide seizure memo

Ex. PW-11/C. PW-20 ACP Rakesh Kumar Sharma also proved these facts in his statement.

20) PW-14 SI Balwan Singh and PW-20 IO Inspector Rakesh Kumar deposed that on 12-5-2011, they reached Karkardooma Court where accused Akram (A-3) and Dilshad (A-2) were produced by Special Cell staff. With the permission of the court, they were arrested formally vide arrest memos Ex. PW-14/A and Ex. PW-14/B who also gave disclosure statements Ex. PW-14/C and Ex. PW-14/D. An application for conducting their TIP was also moved before court. They also stated that accused Sanjay Kumar Jha (A-1) was called in court through production warrants, whose police remand was taken and he led the police to the spot of incident and in this regard pointing out memo Ex. PW9/A was prepared.

21) PW-17 Retd Inspector Subhash Chander deposed that on 2-5-2011 on receipt of case file and DD no. 31-B regarding arrest of accused Sanjay Kumar Jha (A-1) by special cell staff, he alongwith Ct. Manjit and SI Balwan Singh reached the ACMM court in Karkardooma, where SI Rahul Sawhney handed over him copy of kalandra under Section 41(1A) with some

documents which were seized by him vide Ex. PW-17/A. He also stated that with the permission of the court, accused was interrogated and formally arrested in the present case and sent to JC. He proved arrest memo Ex. PW8/A, personal search memo Ex. PW8/B and disclosure statement Ex. PW8/C. He moved an application for TIP also but accused A-1 was not identified in TIP proceedings by complainant or her husband.

22) PW-18 Jitender Kumar, Junior Assistant, North East Zone, from Transport Department proved the record of motorcycle bearing no. DL-5SS-93096 registered in the name of Liyakat Ali as Ex. PW-18/A (Colly). PW-19 Sachin Dabas, Junior Assistant also from Transport Department proved report Ex. PW-19/A to the effect that no record of ownership of motorcycle which was seized from accused Sanjay Kumar Jha (A-1) having engine no. DJGBNL05055 and chassis no. DJ22NCL78658 could be found.

23) PW-20 ACP Rakesh Kumar Sharma besides some facts mentioned above also proved that on 18-5-2011 he sent specimen finger prints of accused to Finger Print Bureau for comparison. He also got conducted from Magistrate TIP of

case property on 30-6-2011. Accused Shamsheer (A-5) refused to participate in TIP but he was identified by PW-3 in police station being the same person who had robbed them by showing revolver. He also collected the ownership documents of motorcycles recovered from A-1 and A-5 besides proving certain more facts relating to investigation.

- 24) PW-21 ASI Sardar Singh was working as MHC (M) with whom IO PW-20 ACP Rakesh Kumar Sharma deposited sealed parcels on 13-5-2011, 18-5-2011, 6-6-2011 and 5-7-2011 along with motorcycles and he made entries in the relevant registers in this regard which are Ex. PW-21/A to Ex. PW21/E.

**Main points raised by prosecution and defence**

- 25) **Identity of accused persons not proved:-** PW-3 Sh. Kalka Singh in his statement stated that on 1-3-2011 at about 8.00 a.m., he had gone to drop his grandson to school and at the time of leaving his house, he had shut the door of his house. After dropping his grandson at school, when he entered inside his house, two persons immediately caught hold of him and

told not to raise alarm otherwise they would kill him. He further alleged that one of the boys was carrying knife and another was carrying a revolver. The person who was carrying revolver gave revolver butt below on his temple region. Thereafter, those two boys took him at the last room on the ground floor, tied his mouth and also tied his hands and feet with cloth. Thereafter, two more accused persons came in that room and all of four took search of his house, broken the almirah (which belonged to his daughter Reshma) and took out cash from it. He further alleged that when accused persons were breaking the almirah, his wife Smt. Shakuntla was also brought in that room. At that time, accused persons were carrying a briefcase belonging to his daughter, which was kept in another almirah at the second floor. He further alleged that thereafter accused persons ran away with robbed cash and jewellery articles after locking PW-3 and his wife in the room. PW-3 further alleged that accused persons taken cash amount of Rs. 3000/-, a gold chain and a gold ring belonging to him also which were kept by him in his box after taking its key from him and left the house after bolting the door of room and

outer main gate of house. When PW-3 raised alarm, his neighbour Guptaji opened the main gate and door of his room. He informed his daughter Reshma through phone who informed the police. Thereafter, police reached at the spot and recorded his statement and statement of his wife. PW-3 identified all the accused persons in the court at the time of giving statement, who had robbed cash and jewellery in his house.

PW-3 in his cross examination admitted that accused persons were in muffled faces, when they had entered in his house. He also admitted that two persons who had caught hold him in the house were in muffled face and one of them had hit him on his head with revolver butt. He also admitted that two other persons were also in muffled face. When this witness was re-examined by the prosecution, then he again confirmed that accused persons were in muffled face and only their forehead and eyes were visible. He also stated that police had shown various photographs of culprits in police station Kamla Market prior to their identification in TIP.

According to PW-3, he and his wife had gone to Tihar

Jail on 5-5-2011 but could not identify A-1 in TIP proceedings. In respect of identification of Dilshad (A-2) and Akram (A-3), he stated that he had come to court on 12-5-2013 (one day prior to holding TIP of these two persons) in noon time with the police and these two accused persons were shown to him. Lateron, he told their descriptions to his wife. He admittedly identified these two persons in TIP on 13-5-2011 as their photographs were also shown to him and his wife by the police and they had identified them at the instance of the police. Such type of TIP is useless evidence.

Ld. Chief PP argued that involvement of accused Dilshad (A-2) being one of the members of dacoits is established from his finger prints found at crime scene. PW-4 SI Rajender Singh posted in Mobile Crime Team, North East as Finger Print Proficient proved that he had visited the spot of incident on 1-3-2011 and lifted 9 chance prints from two almirahs lying in broken condition and sent to Finger Print Bureau. PW-16 Retd. Inspector Cum finger print expert Sh. N. K. Sharma examined specimen finger print and palm print of accused persons (which were sent by IO on 4-7-2011) along

with nine chance prints found from the spot by PW-4 and proved his report Ex. PW-16/A which shows that 8 chance prints were found matched with the specimen finger and palm prints of accused Dilshad (A-2). However, PW-16 admitted in his cross examination that possibility of forcibly obtaining chance prints submitted for examination cannot be ruled out. Accused Dilshad (A-2) was arrested on 12-5-2011 and no explanation has come on record why delay of about 2 months had happened in sending the specimen finger prints to expert. There is no evidence on record to show on which date, time and place specimen finger prints of accused were taken and in whose presence these were taken. Thus, simple matching of finger prints alone is not sufficient to convict accused Dilshad (A-2) for offence u/s 395 IPC when TIP proceedings are found invalid and of no value as already held above.

During his deposition, PW-3 also identified accused Shamsher (A-5) in the court as the person who had shown him pistol and hit him with the same. This accused was arrested on 5-7-2011 and his TIP was conducted on 12-7-2011 but he refused to participate in the TIP before Magistrate on the

ground that his photographs were already taken in police station through mobile and might have been shown to the witness. Prosecution has failed to show that from the date of arrest till the date of holding TIP i.e. from 5-7-2011 till 12-7-2011, he was kept in muffled face so that no one can see his face. As per PW-3, he had identified the accused Shamsheer (A-5) in the police station on 19-7-2011 but such identification is immaterial and is not sufficient to hold him guilty.

It is a fact that accused persons were not known to the PW-3 prior to the date of incident and they had committed dacoity in muffled face. During his deposition, this witness once stated that he identified accused persons from their description but he never gave such description to the police during investigation in his statement u/s 161 Cr.P.C. PW-3 could not identify the accused Sajay Kumar Jha (A-1) in TIP proceedings. Even if the accused persons have admitted in their statements u/s 294 Cr.P.C. that Magistrate had conducted the TIP proceedings of four accused persons but the above facts deposed by star witness of prosecution PW-3 that police had already shown accused Dilshad (A-2) and Akram (A-3

since expired) to PW-3 in the court as well as their photos were also shown, make the TIP proceedings as useless and having no value in the eyes of law. Thus, accused persons Sanjay Kumar Jha (A-1), Dilshad (A-2) and Shamsher (A-5) cannot be convicted for offence of dacoity punishable under Section 395 IPC as their identity being the actual culprits is not established beyond reasonable doubt. Thus, accused persons are liable to be acquitted for offences of Section 395 and 397 IPC as prosecution case is doubtful in this regard.

- 26) **Currency notes were not identifiable:-** Out of Rs. 32 lakhs looted amount, only Rs. 1,40,000/- could be recovered from accused Sanjay Kumar Jha (A-1), Rs. 25,000/- from Dilshad (A-2), Rs. 50,000/- from deceased Akram (A-3) and Rs. 30,000/- from Sonu (A-4) as per prosecution allegations. The money recovered from these accused persons was not having any identification mark and was the ordinary currency notes. Prosecution accepted that currency notes of Rs. 500/- denomination are similar one except bearing distinguishable numbers. Neither PW-3 or PW-6 have given any detail of any currency note numbers, so it is not possible to connect the

accused persons with the recovered currency notes simply on the disclosure statements of accused persons that it was a part of the looted amount. Prosecution also accepted this that currency notes could not have been identified.

**27) Recovery of jewellery items from accused persons**

**doubtful:-** As per prosecution, one gold ring and one gold chain was recovered from accused Sanjay Kumar Jha (A-1). One another gold ring was recovered at the instance of deceased accused Akram (A-3), one pair of Pajeb was recovered at the instance of accused Sonu (A-4).

PW-6 Smt. Reshma was eunuch (kinnar) and used to collect money on badhaai. She could not tell the details of jewellery items in her deposition belonging to her which were robbed but she has stated that jewellery articles i.e. one gold ring, one pair of silver Pajeb and one gold chain Ex. PW3/P1 were recovered by the police and same were got released by her on superdari. She has further alleged that she had kept cash amount of Rs. 32 lakhs in the house of her mother alongwith jewellery items and the said cash was also looted alongwith jewellery by the robbers.

PW-3 also stated that he had not given any receipt/bill of robbed jewellery to police nor he took the police to the jeweller from where he got the jewellery prepared. He had also not given the weight of jewellery to police but stated that his daughter might have given the same to police but not in his presence. He also stated that the recovered jewellery was not weighted in his presence by police but it was seen by his daughter in court. PW-3 had not told the design of jewellery i.e. chain and ring to the police. He also had not given any description of Pajeb to the police.

This witness PW-6 had given statement u/s 161 Cr.P.C. to the police on 1-3-2011 in which she gave details of 20 jewellery items belonging to her which were robbed alongwith the case but that list of 20 items is not containing any reference of silver pair of Pajeb which was recovered from accused Sonu (A-4). In her cross examination, PW-6 stated that she had given the design of Pajeb which was robbed from her house to police but not its weight. However, there is nothing on record including any supplementary statement to

show that even design or description of such Pajeb was given to police. She deposed contradictory whether she had seen the recovered Pajeb in police station or before the Magistrate in TIP proceedings as she firstly said that she was shown the recovered Pajeb in the police station but later on stated that it was shown before Magistrate and she identified the same. Again, she told that she does not remember when the police had shown her the said Pajeb. According to PW-6 recovered jewellery items of such description are easily available in the market.

As per prosecution story, PW-6 had identified two gold rings, one gold chain and pair of silver Pajeb before Magistrate in TIP proceedings. The jewellery items and cash belonging to PW-6 which was kept in the house of her parents was looted. These two persons i.e. complainant Smt. Shakuntala and Sh. Kalka Singh did not utter any word in their statements to the police that besides the cash and jewellery of PW-6 Reshma, any other item belonging to them was also taken by the culprits from house. But during his statement, PW-3 deposed that accused persons took out cash amount of

Rs. 3000/-, a gold chain and a gold ring belonging to him also.

PW-3 also identified the case property i.e. one gold chain, one gold ring and one pair of silver anklet (Pajeb) as Ex. PW-3/P-1 (Colly) as the same which were got released by his daughter on superdari. How and on what basis, he identified the case property in court could not be explained by the prosecution when the same allegedly did not belong to him. Prosecution is not clear whether the recovered rings and chain belonged to PW-3 or PW-6.

- 28) Other contradictions, discrepancies and deficiencies in prosecution case:-** This fact is not in dispute that at the time of arrest of accused persons or at the time of effecting recoveries from them, no sincere effort were made to join any public witnesses, though they were available and police officials had sufficient time also to get them joined. No notice was given to anyone to participate in the proceedings nor noted their names and addresses. Plea taken by every police official that public persons left without disclosing their names and addresses is nothing but a false excuse.

PW-3 during the cross examination denied giving of any

statement to police on 1-3-2011 which is the day of incident but alleged that only statement of his wife was recorded on that day. He further stated in his cross examination that his statement was not recorded by the police at any point of time though he had gone once to police station in connection with the present case. However, as per prosecution his statement was recorded on the same day of incident.

PW-3 in his statement also stated that one accused was having knife whereas another accused was having revolver who even caused revolver butt blow on his temple and he suffered injuries. He even denied suggestion of not suffering of any injury. PW-6 in her statement also stated that she received information on phone about suffering of injuries by her father PW-3 who was assaulted by robbers. Investigating agency could not recover any such weapon. Even PW-3 was not got medically examined for his injuries.

Prosecution has not examined Guptaji who reached at the spot after hearing the noise of PW-3 and firstly opened the bolt of outer door of the house and then internal back room where PW-3 and complainant were confined by robbers after

tying their hands and feet and had left after closing the doors from outside. Even the same Guptaji had informed Reshma daughter of PW-3 about the incident on phone. There is contradiction also whether Reshma was called by Guptaji or by PW-3.

PW-5 stated that they left the police station at about 8-8.15 a.m. and reached at the spot within 10-12 minutes. He remained at the spot for about 20-25 minutes. During this period, IO PW-13 recorded the statement of complainant. PW-5 then took rukka to PS and came back from police station in half hour with copy of FIR. If this witness PW-5 is to be believed, then he along with IO had reached spot at about 8.30 a.m. and took rukka to police station at about 9 a.m. and came back with the copy of FIR at about 9.30 a.m. He also stated that they had left the spot at about 9.30 a.m. This version of the PW-5 is not believable as according to PW-3, his daughter came at spot at about 10 a.m. and then called PCR in his presence. Even DD no. 19-B Ex. PW12/A shows that PCR call was received at 9.35 a.m. whereas FIR was registered in police station at 11.30 a.m. after rukka was sent to police station by

the IO at 11 a.m. On the other hand, PW-13 IO SI Kapil Kumar stated that after the receipt of DD no. 19-B recorded at 9.35 a.m., he reached at the spot along with PW-5 within 15 minutes i.e. by 9.50 a.m. Even crime team was called by him at 10.30 a.m. According to IO, constable Prakash returned at the spot at about 12-12.15 a.m. with copy of FIR. Thus, the contradictory deposition of PW-5 and PW-13 creates dent in the prosecution story and manipulations cannot be ruled out.

PW-13 in his cross examination stated that complainant had given the list of articles which were robbed from her house and at that time her husband and daughter were present but she did not give the design and weight of the articles. However, this fact is incorrect because as per prosecution story, the details and list was given by PW-6 Reshma and not by complainant Smt. Shakuntala.

PW-3 denied that accused Dilshad (A-2) was brought to his house by police but as per prosecution, this accused led the police to the place of occurrence and pointed out towards the place where he and his associates committed dacoity and in this regard, police also prepared pointing out memo.

**Final decision**

- 29) In view of the above discussions, prosecution has failed to prove the case beyond doubt, so all the accused persons are acquitted of the charges by giving benefit of doubt. Their bail bonds are cancelled. However, they have to furnish the mandatory bail bonds u/s 481 BNSS (Section 437A Cr.P.C.). File be consigned to record room.

Dated- 31-1-2026.

(Ashwani Kumar Sarpal)  
Principal District & Sessions Judge  
East District, Karkardooma Courts, Delhi.