

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

Case No.: 259/PW/2018

Exh. 4

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

VERSUS

Julfikar Ahmed Hussain Sayyed,
Age 45 years, R/o.: Room No. 55,
N. S. S. Road, Narayan Nagar, Tardeo Chawl,
Ghatkopar West, Mumbai. **ACCUSED**

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

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

JUDGMENT

(Delivered on 07th 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 16.02.2018 at about 07.47 hours the informant Mr. Dinesh Vijay Parab was travelling in Churchgate up Fast local train. At that time his mobile handset, LG - G4 company made was stolen. 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. 341/2018. The investigating officer Mr. R. V. Shinde, PSI, Police Station

Mumbai Central (railway) investigated into the matter. He recorded statement of the witnesses as per their says, further, he seized mobile handset, LG-G4 company made 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 through Video Conference. The accused pleaded guilty.

4] The points for determination alongwith my findings thereon :

<u>POINT</u>	<u>FINDINGS</u>
01) Whether the prosecution proved that the accused intending to take dishonestly mobile handset, LG-G4 company made of the informant Mr. Dinesh Vijay Parab without his consent moved the same in order to such.... taking?	<u>Yes.</u>
02) 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 mobile handset, LG-G4 company made of the informant Mr. Dinesh Vijay Parab 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. 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 mobile handset, LG-G4 company made. 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. The seized mobile handset, LG-G4 company made already given to the informant Mr. Dinesh Vijay Parab 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

(01) The accused Julfikar Ahmed Hussain Sayyed, Age 45 years, R/o.: Room No. 55, N. S. S. Road, Narayan Nagar, Tardeo Chawl, Ghatkopar West, 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 16.02.2018 till date.

(03) The sentences passed in C. C. No. 259/PW/2018 and C. C. No. 261/PW/2018 shall run concurrently.

(04) The seized mobile handset, LG-G4 company made shall be retained by the informant Mr. Dinesh Vijay Parab, R/o. Room No. 202, B Wing, Gokul Paradise, Thakur Complex, Kandivali East, Mumbai and his indemnity bond will be cancelled, after appeal period is over.

Date : 07.07.2018

Sd/-
(S. R. Narwade)
Metropolitan Magistrate
36th Court, Mumbai Central,
Mumbai.