

	R/o. Near Ganapati Temple, Gundge, Tal. Karjat, Dist. Raigad.
Represented by	Shri. R. S. Joshi, the Ld. Advocate for accused person.

Part 'B'

(Para 44(ii) of Chapter VI of Criminal Manual)

Date of offence	08/10/2025 to 09/10/2025
Date of FIR	09/10/2025
Date of Chargesheet	26/12/2025
Date of Framing of Charges	08/01/2026
Date of commencement of evidence	03/02/2026
Date on which Judgment is reserved	25/06/2026
Date of the Judgment	24/07/2026
Date of the sentencing Order, if any	Nil

DETAILS OF THE ACCUSED

Rank of the accused	Name of accused	Date of arrest	Date of release on bail	Offence charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, CrPC.-
1.	Shankar Arjun Salunkhe @ Shankar Arjun Patil	12/11/2025	-	Sections 305(a), 331(4) of the Bharatiya Nyaya Sanhita, 2023.	Acquitted	--	--

J U D G M E N T
(Pronounced in open Court)

Accused is facing trial of the offence punishable under sections 305(a), 331(4) of the Bharatiya Nyaya Sanhita, 2023 (for short hereinafter “BNS”).

02) The case of the prosecution is that on 08/10/2025, in between period at about 19:30 pm to 06.00 am of 09/10/2025, the accused committed house lurking or house breaking during the period between sunset and sunrise, and committed theft of 03 mobile phones and other accessories by breaking the 04 locks of shutter of 'Dattkrupa mobile shopee' with the help of an iron rod. The said shop is owned by the informant namely, Rajesh Tukaram Aambavkar and the said shop is located at Sangmeshwar to Deorukh road, near Sangmeshwar S.T. stand, Tal. Sangmeshwar, Dist. Ratnagiri. The accused committed theft of 03 mobile phones and other accessories, without the consent of the informant. Hence, accused committed an offence punishable under section 305(a), 331(4) of the Bharatiya Nyaya Sanhita, 2023.

03) The informant namely, Rajesh Tukaram Ambavkar lodged FIR against an unknown person in Deorukh Police Station, on the basis of which, C. R. No. 117/2025 was registered. Shri. R. S. Gavit, PSI, Sangmeshwar Police Station, carried out investigation. During investigation, he recorded spot panchanama and recorded statements of important witnesses. After investigation, he filed chargesheet No. 56/2025, against the accused.

04) The accused is in Magisterial Custody. After production of the accused person by the jail authority, I framed charge against accused under sections 305(a), 331(4) of the B.N.S. below Exh. No. 09. The contents of the charge were read over and explained to accused in his vernacular, to which, he pleaded not guilty vide Exh. No. 10 and claimed to be tried. In the statement recorded under section 351 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "B.N.S.S." hereinafter), below Exh. No. 38, accused took defence of denial and false implication in the crime.

05) Heard the Ld. APP. Shri. A. L. Daddekar and the Ld. Advocate for the accused person, Shri. R. S. Joshi. Perused the record.

06) Following points arise for determination along with findings and reasons thereon are as under :-

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1)	Whether the prosecution proves that on 08/10/2025, in between period at about 19:30 pm to 06.00 am of 09/10/2025, the accused committed theft of 03 mobile phones and other accessories, without the consent of the informant namely, Rajesh Tukaram Aambavkar from his 'Dattkrupa mobile shope' located and thereby committed an offence punishable under section 305(a) of the B.N.S. ?	... No.

2)	Whether the prosecution proves that on above mentioned date, time and place, the accused person committed lurking house trespass or house breaking with the intent to commit a crime, after sunset and before sunrise and thereby committed an offence punishable under section 331(4) of the B.N.S. ?	... No.
3)	What order ?	... Accused person is acquitted.

REASONS

As to the point No. 01 and 02 :-

07) As these points are inter-related to each other, to avoid repetition, I am discussing them together. Rajesh(PW1) stated in his examination-in-chief that he live in Chiplun and his mobile shop is located in Sangameshwar, Tal. Sangameshwar. He go to and from Chiplun every day. On 08/10/2025, between 07:30 and 08:30, he closed his mobile shop and went to Chiplun. On 09/10/2025, he received a call from his brother namely, Ramdas Tukaram Ambavkar at around 07:30 am. He told him that the shutters of his shop was half open. Hence, he got scared and he came alongwith his son -Arya, to Sangameshwar. The shutter of the shop was half open and all the four locks on the shop door had been broken and thrown aside. He saw the box of the power bank,

watch and headphone from his shop lying there. He saw a rod and a spanner lying outside the shutter. After that, he called the police station and reported the incident.

08) Rajesh (PW1) stated further that after that the police and forensic mobile van, along with a dog squad and a fingerprinting team, were then arrived at the spot. The police inspected the place throughout the day. In the evening, the police conducted a panchnama in presence of the panchas. It was reveal that items i.e. a mobile of Y-31 Pro Vivo company, a mobile of F-17 Samsung company, a mobile of Oppo-K-13 X company, a router of Jio company, a power bank, a headphone and a watch were stolen from his shop. He has filed a complaint about the said incident at the police station. Then, the complaint was shown to the witness by the prosecution, to which, he said that it bears his signature and it's contents are true. Hence, it is exhibited at Exh. No. 10.

09) Rajesh (PW1) stated further that at around 06:00 pm to 06:15 pm, during the Panchnama, he, the police, Panch-Akash Shetye and Rajendra Birje were present. At that time, he told the police and the Panch about the incident. Two to three mobile phones in his shop were broken but they were not stolen. The police recorded the panchnama and seized 04 locks, a rod and a spanner etc. The seized muddemal i.e. 04 locks, a rod and a spanner were shown to the witness, to which, he identified the same. Hence, Article 'A' was given to the rod, Article 'B' was given to the 04 locks collectively and Article 'C' was given to the spanner. Then, further the remaining muddemal i.e. a mobile of Vivo

company and a watch were shown to the witness, to which, he identified it. Hence, Article 'D' was given to the mobile of Vivo company and Article 'E' was given to the watch. Then, the spot panchnama was shown to Rajesh (PW1), to which, he stated that it bears his signature and it's contents are true. Hence, it is exhibited at Exh. No. 11.

10) In further chief-examination, Rajesh (PW1) stated that the police called him again on 13/11/2025 and showed him the accused and the recovered items. The police told him that they would search for the remaining stolen items. Accordingly, his supplementary statement was recorded. It was shown to him, to which, he stated it bears his signature and it's contents are true. Hence, it is exhibited at Exh. No. 12. The accused had confessed to the theft at that time. At that time, his stolen mobile phone was recovered from the accused. Then, further he identified the accused during his chief-examination.

11) In cross-examination, Rajesh (PW1) stated that on that day, he had lodged a complaint at around 04:00 pm to 05:00 pm. I and he cannot explain why the said time is not mentioned in the complaint. Further, he stated that he did not provide any documentary evidence to the Investigating Officer about ownership of the said shop and to show that the goods allegedly stolen from his shop were existed in his shop. He further stated that he had not given the police a copy of the stock register of his shop. He further admitted that he did not submit the tax receipt of his shop to the police and the police did not ask him for it. He further admitted

that the forensic team did not conduct a panchnama to take the fingerprints on the locks, bars and spanner and seized them all.

12) In further cross-examination, Rajesh (PW1) admitted the C.C.T.V. footage shown to him by the police was not seized in his presence. Further, he admitted that the owner of the shop-Sairaj Cold Drinks did not file a complaint in the police station and there are no boards outside the shop-Sairaj Cold Drinks stating "You are under C.C.T.V. surveillance". He further admitted that the spot panchnama was handwritten and not typed. He further stated that the police brought a laptop and the spot panchnama was started at 06:15 PM and completed between 07:00 pm and 07:15 pm. He further stated that on that day, between 04:00 pm to 04:15 pm, he went to the police station to file a complaint and the time of 04:00 pm to 04:15 pm is not mentioned in the complaint. Further, he denied adverse suggestions put to him by the defence side.

13) Sachin (PW2) stated in his examination-in-chief that on 14/11/2025, he went to Mouje Neral, Tal. Karjat for recording panchnama of a theft alongwith Police Officer Shri Gavit and two other persons. There was an Activa motorcycle bearing number MH-46-5127. A smart watch was found in the vehicle, its strap was saffron in color and the dial was black and white in color. Then, the muddemal i.e. smart watch below Article E was shown to the witness, to which, he identified it as same.

14) Sachin (PW2) stated further that the police seized the said watch and took his signature on it's label and panchnama, at

Sr. No.02. Jitendra Jadhav had also signed it. Then, the panchnama was shown to him to which, he stated that it's contents are true and it bears his signature. It is exhibited at Exh. No. 14.

15) In cross-examination, Sachin (PW2) admitted that the numbers of the Activa motorcycle in the said panchnama appear to have been overwritten and it creates suspicion between the motorcycle he saw and the motorcycle mentioned by the police. He admitted further that it is mentioned in the said panchnama that it was completed with the help of a laptop and was printed on a printer in the informant's shop. Further, he denied the adverse suggestions put to him by the defence side.

16) Akash (PW3) stated in examination-in-chief that on 09/10/2025, Police Officer Shri Gavitt called him to the place behind the S.T. Stand at 'Dattakrupa Mobile Shopee' and also to Rajendra Shantaram Birje, for recording spot panchnama. A panchnama was recorded there. The shutter of the shop was broken and 04 locks, iron rod and a spanner were lying there. Later, a dog squad, forensic team and fingerprint team arrived there. The materials found at the said place were examined in front of them and were sealed. The signatures of himself and Rajendra Birje were taken on the panchnama and sealed materials.

17) Akash (PW3) stated further that mobile, headphones, Bluetooth etc. were stolen from the said shop. Then, the spot panchnama was shown to the witness, to which, he stated that it bears his signature and it's contents are true. Then, the muddemal i.e. an iron rod (Article A), 04 locks (Article B) and (Article C)

were shown to him, to which, he identified the same. He stated further that the photographs were also taken there. The said photographs were taken on the mobile phone of Police Officer Mr. Gavit and uploaded into E-Sakshya Application.

18) In cross-examination, he admitted that he has signed many panchnamas as a panch. He further stated that he do not remember the exact timing of the Panchnama. He further stated that he was called at the spot for recording the spot panchanma and at that time, the informant went to the police station. Further, he denied the adverse suggestions put to him by the defence side.

19) Sandesh (PW4) stated in his examination-in-chief that his shop namely, 'Sairaj Coldricks' is located at Sonvi Chowk, Sangameshwar, near S.T. Stand and remains open in between 07.00 am to 10.00 pm. On 09/10/2025, he came to his shop as usual at 07:00 am. At that time, he saw that the shutter of his shop was open and two locks were broken. After going inside, he saw that the refrigerator in the shop was open and the counter was broken. The next shop of Rajesh Ambavkar, namely, 'Dattakrupa Mobile Shoppee', was also open. There had been a theft there too. After that, he informed the police station. Someone had informed Rajesh Ambavkar about the theft. Therefore, he came to his shop. He also informed the police about the theft. After that, the police came to his shop and watched the C.C.T.V. footage of his shop. In the said C.C.T.V. footage, the accused Salunkhe/Patil, was seen going to the shop and coming out of the shop. He had given the C.C.T.V. footage of the incident to the police.

20) Sandesh (PW4) stated further that two cups of ice cream and small change were stolen from his shop. 03 mobiles and mobile accessories were stolen from Rajesh Ambavkar's 'Dattakrupa Mobile Shoppee'. The police brought the accused on the spot and he had confessed to stealing from the said mobile shop and his shop. Then, the witness identified the accused during the testimony.

21) In cross-examination, Sandesh (PW4) admitted that he cannot tell how much cash was in the account of the shop before the alleged theft. He further stated that he keeps a daily record of receipts and expenses and admitted further that he did not give the police the record of the stock of goods and the record of receipts and expenses for that day. He stated further that he did not file the complaint of a theft. He further admitted that the police did not seize the two broken locks of his shop in his presence. Further, he denied the adverse suggestions put to him by the defence side.

22) Vijay (PW5) stated in his examination-in-chief that on 11/11/2025, he was working at the Local Crime Investigation Branch, Ratnagiri, Dist. Ratnagiri. A parallel investigation into the crime registered under Sections 331 (4) and 305 (A) of the B.N.S., registered at Sangameshwar Police Station, bearing Crime No. 117/2025, was being conducted by the Local Crime Investigation Branch, Ratnagiri, Dist. Ratnagiri. Based on the C.C.T.V. footage at the spot, he received confidential information that the said crime was committed by the accused namely, Shankar Patil. In the said crime, a mobile phone was stolen by breaking a mobile shop. It

was found that the mobile phone and it's SIM card of Vivo company were being used by Prem Dukare, R/o. Shahapur, Murbad Road and the location of the said mobile phone was at Shahapur, Murbad.

23) Vijay (PW5) stated further that accordingly, he, Police Head Constable- Mr. Vivek Rasal, Dipraj Patil, driver-Atul Kamble left Ratnagiri on 11/11/2025, came to Shahapur, Dist. Thane, by government vehicle No. MH-08/BE-0173. Since the said place is under the jurisdiction of Kinhawali Police Station Rural, he gave a letter to get help in the police investigation vide Exh. No. 27. Accordingly, the concerned Station Police Officer took entry in station diary vide Exh. No. 28 and gave it's copy to him.

24) Vijay (PW5) stated further that based on the information received and mobile location, they reached Shundrun Budruk, Tal. Shahapur, Dist. Thane, and at around 22:00 hrs, they found the accused-Shankar Patil. When they examined his mobile phone, they found that it's description and IMEI number matched with the stolen mobile phone in Sangameshwar Police Station, Crime No. 117/2025. Thereafter, they called two panchas and seized the said mobile phone in their presence and recorded the panchnama 22:10 to 22:45 hrs.

25) Then, the muddemal i.e. mobile phone at Article D and the seizure panchnama shown to Vijay (PW5), to which, he identified it as same. He stated that the panchnama bears his signature and it's contents are true. Hence, it is exhibited at Exh. No. 29. During the said Panchnama, Police Head Constable- Mr.

Vivek Rasal has done videography and photography in E-Sakshya Application. Then, they came with the seized muddemal and accused at Kinhawali Police Station and further to Sangameshwar Police Station. He had given a letter dated 12/11/2025 to the Sangameshwar Police Station, for production of the accused along with the seized muddemal and the Panchnama, vide Exh. No. 32. Accordingly, the muddemal receipt was prepared vide Exh. No. 33. Further, he identified the accused during his testimony.

26) In cross-examination, Vijay (PW5) admitted that there is no clear mention of depositing the said mobile phone in the letter vide Exh. No. 32. He further admitted that there is no signature of Police Head Constable- Shri. Vivek Rasal on the seizure Panchnama vide Exh. No. 29. He further admitted that it is not mentioned in the said seizure panchnama that *“the said person namely, Prem Pramod Dukre had filed a complaint in any police station regarding the theft of the SIM card in his name”*. Further he admitted that the copy of the videography and photography done by Police Head Constable-Vivek Rasal was not annexed to the chargesheet to be given to the accused. Further, he admitted that he has not produced any document to show that the accused was taken into the custody. Further, he denied the adverse suggestions put to him by the defence side.

27) Vivek (PW6) stated in his examination-in-chief that on 11/11/2025, he was working at the Local Crime Investigation Branch, Ratnagiri, Dist. Ratnagiri. A parallel investigation of the crime registered under Section 331 (4) and 305 (A) of the Indian

Penal Code, registered at Sangameshwar Police Station, bearing No. 117/2025, was started by the Local Crime Investigation Branch, Ratnagiri, Dist. Ratnagiri.

28) Vivek (PW6) stated further that based on the C.C.T.V. footage at the spot and the SIM card location in the mobile, the said mobile and it's SIM card belong to Prem Dukare, R/o. Shahapur, Murbad Road and the location of the said mobile is at Shahapur, Murbad. Accordingly, he, Police Head Constable/909-Shri. Ambekar, Shri. Dipraj Patil, driver-Atul Kamble, along with the necessary materials, left Ratnagiri by government Vehicle No. MH-08/BE-0173 on 11/11/2025 and came to Shahapur, Dist. Thane. Based on the mobile location, it was found that the place of the said person is at Shundrun Budruk, Tal. Shahapur, Dist. Thane. Before that, they went to Kinhavali Police Station Rural.

29) Vivek (PW6) stated further that based on the information received and C.C.T.V. footage, they reached at Shundrun Budruk, Tal. Shahapur, Dist. Thane and found the accused at around 22:00 hrs. On his examination, the Vivo company Y31, Pro 5G mobile phone was found in his possession. The IMEI number of the stolen mobile phone in Sangameshwar Police Station, Crime No. 117/2025 and of that mobile phone were the same. On enquiry, he said that the said mobile phone was stolen from a mobile shop in front of Sangameshwar S.T. Stand. He also said that he had stolen a two-wheeler from the jurisdiction of Rajapur Police Station.

30) Vivek (PW6) stated further that after that, two panch

witnesses were called and the said mobile phone was seized and accordingly, the seizure panchnama was recorded by Police Head Constable Shri. Aambekar. At that time, he had done videography and photography in E-Sakshya Application. In this regard, he had given a certificate under Section 63 (4) (c) of the Indian Evidence Act. Then, the said certificate shown to him, to which, he stated that it bears his signature and it's contents are true. Hence, it is exhibited at Exh. No. 35. The seized muddemal i.e. mobile (Article D) was shown to him, to which, he identified as same. He further stated that along with the seized muddemal and the accused, they came to Sangameshwar Police Station. During testimony, he identified the accused.

31) Vivek (PW6) in cross-examination admitted that he has not signed the said mobile seizure panchnama. Further he admitted that the copy of the videography and photography done by him, was not submitted to the Investigating Officer to be given to the accused. Further, he denied the adverse suggestions put to him by the defence side.

32) Ramesh (PW7) stated in his examination-in-chief that on 09/10/2025, he was working at Sangameshwar Police Station. Three mobile phones and other accessories- including a headphone, a watch, a power bank, etc. were stolen from 'Dattakrupa Mobile Shoppee' located on the road from Sangameshwar to Deorukh in Sangameshwar Market. The said complaint was registered against an unknown person and it's investigation was given to him by an order vide Exh. No. 37.

Then, he called two panchas and recorded a spot panchnama vide Exh. No. 11 in between 18.30 hrs. to 19.15 hrs. of the shop in their presence. At that time, four iron locks, a steel spanner and an iron rod etc. were seized and they were sealed with labels bearing the signatures of himself and of panchas.

33) Ramesh (PW7) stated further that at that time, the dog squad and the fingerprint team were also called there. The complainant had shown them the place of the incident during the Panchnama. Then, the muddemal i.e. an iron rod (Article A), 04 locks (Article B) and a spanner (Article C) were shown to him, to which, he identified it as same. Then, he prepared the muddemal receipt vide Exh. No. 38.

34) Ramesh (PW7) stated further that the Sairaj shop, which is close to the spot of the incident, was also broken into. The C.C.T.V. footage installed in the said shop was seized on 10/10/2025 in the presence of two panchas. At that time, he had recorded panchnama and produced the DVD. After that, he and the Local Crime Investigation Department, Ratnagiri started a joint search of the accused. Since the accused was using the stolen mobile phone, when the location was searched through the IMEI number of the mobile phone, it was found to be located in Kinhawali, Dist. Thane. Hence, Police Officer Mr. Ambekar, Mr. Rasal and the driver of the Local Crime Investigation Department, Ratnagiri went there and arrested the accused with the help of the local police station.

35) Ramesh (PW7) stated further that the mobile phone

was found in the possession of the accused there. On inquiry, the accused told in present of 02 panchas that the said mobile phone was stolen from a shop in Sangameshwar. The mobile phone was seized in front of two panchas. A panchnama was recorded and after taking the custody of the accused by the Local Crime Investigation Department, Ratnagiri, they all came to Sangameshwar Police Station.

36) Ramesh (PW7) stated further that the mobile phone, seizure panchnama of mobile phone and other documents seized from the possession of the accused by the Local Crime Investigation Department, Ratnagiri were included in the present case. The seized mobile phone was deposited to Police Station Officer, Smt. V. S. Tambade and muddemal receipt was prepared accordingly.

37) Ramesh (PW7) stated further that the accused was arrested and during the period of his police custody, on 13/11/2025, the informant was called to the police station and shown the seized mobile phone, to which, he identified as same. On inquiry in front of the complainant, the accused admitted that the said mobile phone was one of the stolen mobile phones from 'Dattakrupa Mobile Shop', located on Sangameshwar Deorukh Road. Accordingly, the supplementary statement of the informant was recorded vide Exh. No. 12. Thereafter, on inquiry, the told that the remaining stolen muddemal were sold in a mobile shop at Murbad, Dist. Thane.

38) Ramesh (PW7) stated further that accordingly, he took

the accused along with his colleagues to Murbad, Dist. Thane on 14/11/2025 and took help of local police station by giving request letter vide Exh. No. 39. Accordingly, an entry was made in the station diary vide Exh. No. 40. As per the say of the accused, they went to the concerned shop. But, the shopkeeper said that he had never seen the accused there. From the C.C.T.V. footage of the shop, it was seen that the accused had not gone there. Hence, the accused had lied to them.

39) Ramesh (PW7) stated further that on 02/10/2025, the accused stole an Activa motorcycle parked in the courtyard of the house belonging to Jitendra Jaywant Jadhav, R/o. Neral, Tal. Karjat, Dist. Raigad at around 20.00 hrs. and came to Sangameshwar via Mumbai-Goa highway, stole the goods from Dattakrupa Mobile Shop, came to Rajapur and left the vehicle there in an abandoned condition. From Rajapur, the accused stole another vehicle and went to Radhanagari, Dist. Kolhapur and left the vehicle there and from there, stole a new vehicle and came to Karjat. In this way, it was seen that the accused stole different vehicles and used them until the petrol ran out and left those vehicles at different places. The cases have been registered in different police stations at the places where the said vehicles were stolen. Accordingly, he recorded the statement of Jitendra Jadhav.

40) Ramesh (PW7) stated further that on examination of the vehicle of Jitendra Jadhav, he found a watch in it. He seized the said watch in front of two panchas and recorded a seizure panchnama vide Exh. No. 14. There is a mistake in the last

paragraph of it by his scribe. At that time, they had taken a laptop with themselves. However, since the battery power of the laptop was low and there was no light at Jitendra Jadhav's house, the panchnama was written by hand. At that time, there was a mistake in the last paragraph of the panchnama.

41) Ramesh (PW7) stated further that after that, muddemal receipt was prepared vide Exh. No. 41. The accused had committed the crime of vehicle theft within the jurisdiction of Rajapur Police Station. Hence, he had given a letter to Rajapur Police Station vide Exh. No. 42 to obtain the necessary documents of that crime. Then, he filed the chargesheet against the accused in the Court. During testimony, he identified the accused.

42) Ramesh (PW7) in cross-examination admitted that in supplementary statement of the informant vide Exh. N0. 12, it is mentioned that the accused broke into three shops and stole, but the name of the third shop is not mentioned in it. He further admitted that the informant had filed the complaint at 07.09 pm and hence, he must be present at the police station at 07.09 pm. He further admitted that the spot panchnama was recorded on the 09/10/2025 in between 18.30 and 19.15 pm. And denied further that the complainant cannot be present at two places at the same time.

43) Ramesh (PW7) in further cross-examination admitted that in the complaint it is not mentioned the theft of Vivo Company's 5G off-white coloured mobile phone. He further admitted that the entire stolen property, as mentioned in the

complaint, was not recovered from the possession of the accused. He further admitted that while conducting the panchnama vide Exh. No. 14, Jitendra Jadhav, the owner of the two-wheeler, was taken as a panch witness. He further admitted that two IMEI numbers of the stolen mobile phones in the complaint are not mentioned. Further, he denied the adverse suggestions put to him by the defence side.

44) Considering the record, it reveals that the prosecution's case is that the accused committed theft by breaking into the complainant's mobile shop during night time. Upon examining the evidence on record, the complaint regarding the crime and the supplementary statement have been substantiated through the testimony of Rajesh (PW1). The complaint is filed against an unknown person. The spot panchnama is also proved through the testimony of Rajesh (PW1).

45) During cross-examination, Rajesh (PW1) stated that on that day, he had lodged a complaint at around 04:00 pm to 05:00 pm. and the said time is not mentioned in the complaint. Further, he stated that he did not provide any documentary evidence to the Investigating Officer about ownership of the said shop and to show that the goods allegedly stolen from his shop were existed in his shop. He further stated that he had not given the police a copy of the stock register of his shop. He further admitted that he did not submit the tax receipt of his shop to the police and the police did not ask him for it. All these admissions are fatal to the prosecution side.

46) For the offence of the theft, the ownership of the stolen muddemal should be proved by the prosecution. But, in present case, no documents of ownership or stock register of the said shop is produced on record. In such circumstances, it can nit be concluded that the goods allegedly stolen from his shop were existed in his shop. In further cross-examination, Rajesh(PW1) admitted the C.C.T.V. footage shown to him by the police was not seized in his presence.

47) Sandesh (PW4) is also important witness of the prosecution, As per his testimony, his shop was also broken by the accused. But, in cross-examination, he admitted that he did not filed the complaint in the police station and the police did not seize the two broken locks of his shop in his presence. It reveals that the Investigating Officer has not investigated the offence in detail and in proper manner.

48) The seizure panchnama below Exh. No. 14 is duly proved by Sachin (PW2). But, in cross-examination, he admitted that the numbers of the Activa motorcycle in the said panchnama appear to have been overwritten and it creates suspicion between the motorcycle he saw and the motorcycle mentioned by the police. It is also fatal to the prosecution. The spot panchnama is duly proved by Akash (PW3). Nothing favourable came on record from his cross-examination for the defence side.

49) The seizure panchnama of the mobile vide Exh. No. 29 is duly proved by Vijay (PW5). The certificate as per section 63 (4) (c) of the Bharatiya Sakshya Adhiniyam, 2023, is duly proved by

Vivek (PW6). But, Vijay (PW5) admitted that there is no clear mention of depositing the said mobile phone in the letter vide Exh. No. 32. He further admitted that there is no signature of Police Head Constable- Shri. Vivek Rasal on the seizure Panchnama vide Exh. No. 29. He further admitted that it is not mentioned in the said seizure panchnama that *“the said person namely, Prem Pramod Dukre had filed a complaint in any police station regarding the theft of the SIM card in his name”*. Further he admitted that the copy of the videography and photography done by Police Head Constable-Vivek Rasal was not annexed to the chargesheet to be given to the accused. Further, he admitted that he has not produced any document to show that the accused was taken into the custody. Vivek (PW6) in cross-examination admitted that he has not signed the said mobile seizure panchnama. Further he admitted that the copy of the videography and photography done by him, was not submitted to the Investigating Officer to be given to the accused. It is also fatal to the prosecution.

50) Ramesh (PW7) stated further that the Sairaj shop, which is close to the spot of the incident, was also broken into. The C.C.T.V. footage installed in the said shop was seized on 10/10/2025 in the presence of two panchas. At that time, he had recorded panchnama and produced the DVD. Perusal of record reveals that the request to produce a copy of the said panchnama and DVD on record has been rejected as per the order passed below Exh. No. 21. Hence, the said C.C.T.V. footage and its seizure panchnama are not came in the evidence. It is also fatal to the

prosecution.

51) Rajesh(PW1) stated in his chief-examination that on 13/11/2025, the accused was shown to him and he confessed the offence. Sandesh (PW4) also stated that the police brought the accused on the spot and he had confessed to stealing from the said mobile shop and his shop. Considering the same, it reveals that it is an extra judicial confession. It is a settled principle of criminal jurisprudence that extra-judicial confession is a weak piece of evidence. Wherever the Court, upon due appreciation of the entire prosecution evidence, intends to base a conviction on an extra-judicial confession, it must ensure that the same inspires confidence and is corroborated by other prosecution evidence. If, however, the extra-judicial confession suffers from material discrepancies or inherent improbabilities and does not appear to be cogent as per the prosecution version, it may be difficult for the Court to base a conviction on such a confession.

52) The Hon'ble Apex Court has consistently ruled that an extra-judicial confession is a weak piece of evidence. The Court has established that such a confession can only form the basis of a conviction if it is found to be completely voluntary, truthful, and trustworthy, and is supported by strong independent corroboration. I am guided by the principles laid down in **Indrajit Das V/s. State of Tripura (AIR 2023 Supreme Court 1239).**

53) Hence, from discussion supra, it is clear that the prosecution has miserably failed to prove the chain of the offence with strong and independent evidence. In such circumstances, the

accused cannot held to be guilty of an offence. The evidence came on record is not sufficient to conclude that the accused has committed the offence. Hence, considering all these, I have no hesitation to hold that the offence under section 305(a), 331(4) of the B.N.S. has been not proved beyond reasonable doubt against the accused. Hence, I answered point no. 01 and 02 in negative.

As to point No. 03 :-

54) Considering all these facts, it is clear that the prosecution failed to prove the offence under section 305(a), 331(4) of the B.N.S. beyond reasonable doubt against the accused. Hence, he is entitled to get benefit of doubt.

55) The muddemal at Sr. Nos. 01 and 02 i.e. 03 locks and 01 lock, as mentioned in the chargesheet, being worthless, can be destroyed as per rules, after appeal period is over. The retail price of the muddemal at Sr. No. 03 and 04 i.e. one spanner of Taparia company and one iron rod is mentioned. As no one claimed these muddemal till date, it will be proper to sell out it in public auction and the amount therefrom shall be deposited to the Government, after appeal period is over.

56) The retail price of the muddemal at Sr. No. 05 and 06 i.e. one mobile of Vivo company and one smart watch of Gizmore company is mentioned. No one has claimed these muddemal till date. So also, it is not proved by the prosecution by leading strong evidence supported with documentary evidence that it belongs to the informant. Hence, it will be proper to sell out it in public

auction and the amount therefrom shall be deposited to the Government, after appeal period is over. Hence, in the answer to the point no. 03, I pass following order :-

ORDER

1. Accused is hereby acquitted of an offence punishable under section 305(a), 331(4) of the Bharatiya Nyaya Sanhita, 2023 vide section 271 (1) of the Code of Criminal Procedure.
2. The accused is set at liberty.
3. The seized muddemal at muddemal at Sr. Nos. 01 and 02 i.e. 03 locks and 01 lock, shall be destroyed as per rules, after appeal period is over.
4. The seized muddemal at muddemal at Sr. Nos. 03 to 06 i.e. one spanner of Taparia company, one iron rod, one mobile of Vivo company and one smart watch of Gizmore company shall be sell out it in public auction and the amount therefrom shall be deposited to the Government, after appeal period is over.
5. Inform the concerned jail authority accordingly.

Date: 24/07/2026
Place: Deorukh

(Rohini R. Kulkarni)
Judicial Magistrate First Class,
Deorukh, Dist. Ratnagiri.

APPENDIX-I

Part 'C'

(Para 44(iii) of Chapter VI of Criminal Manual)

LIST OF PROSECUTION WITNESSES

Rank	Name		Nature of evidence
PW01	Rajesh Tukaram Ambavkar	Exh. No. 09	Informant
PW02	Sachin Vijay Bhongle	Exh. No. 13	Panch Witness
PW03	Akash Mukund Shetye	Exh. No. 16	Panch Witness
PW04	Sandesh Dattaram Kapdi	Exh. No. 17	Witness
PW05	Vijay Tanaji Ambekar	Exh. No. 26	Witness
PW06	Vivek Shridhar Rasal	Exh. No. 34	Witness
PW07	Ramesh Suhas Gavit	Exh. No. 36	Investigating Officer

LIST OF DEFENCE WITNESSES

Rank	Name	Nature of evidence
Nil		

LIST OF PROSECUTION EXHIBITS

Sr. No.	Exhibit Number	Nature of evidence
1	Exh. P-10/PW01	The complaint
2	Exh. P-11/PW01	Spot panchanama
3	Exh. P-12/PW01	Supplementary statement of the informant

4	Exh. P-14/PW02	Seizer panchanama of dated 14/11/2025
5	Exh. P-27/PW05	Letter dated 11/11/2025 given to Kinhawali Police Station by Vijay (PW05)
6	Exh. P-28/PW05	Station Diary entry No. 029 dated 11/11/2025 of Kinhawali Police Station
7	Exh. P-29/PW05	Seizer panchanama of mobile
8	Exh. P-32/PW05	Correspondence dated 12/11/2025 made to Sangmeshwar Police Station by Vijay (PW05)
9	Exh. P-35/PW06	Certificate as per Section 63(4)(c) of the Bharatiya Sakshya Adhiniyam, 2023
10	Exh. P-37/PW07	Order of investigation
11	Exh. P-38/PW07	Muddemal receipt
12	Exh. P-39/PW07	Correspondence dated 14/11/2025 made to Murbad Police Station by Ramesh (PW07)
13	Exh. P-40/PW07	Station Diary No. 010/2025 of Murbad Police Station
14	Exh. P-41/PW07	Muddemal receipt of smart watch
15	Exh. P-42/PW07	Correspondence made to Rajapur Police Station by Ramesh (PW07)

DOCUMENTS ADMITTED BY DEFENCE

Sr. No.	Exhibit Number	Nature of evidence
Nil		

LIST OF DEFENCE EXHIBITS

Sr. No.	Exhibit Number	Nature of evidence
Nil		

LIST OF COURT EXHIBITS

Sr. No.	Exhibit Number	Nature of evidence
Nil		

MATERIAL OBJECTS

Sr. No.	Material Object Number	Description
1	Article "A"/PW01	One iron rod
2	Article "B"/PW01	Four locks collectively
3	Article "C"/PW01	One Spanner
4	Article "D"/PW01	Mobile of Vivo Company
5	Article "E"/PW01	One smart watch

Date: 24/07/2026
Place: Deorukh

(Rohini R. Kulkarni)
Judicial Magistrate First Class,
Deorukh, Dist. Ratnagiri.

-: CERTIFICATE :-

I affirm that the contents of this pdf file Order are same word as per original Order/Judgment.

Name of Stenographer	: A. A. Shivalkar.
Court Name	: The Court of Judicial Magistrate F.C., Deorukh
Date of Decision	: 24/07/2026
Judgment signed by Presiding Officer on	: 24/07/2026
Judgment uploaded on	: 24/07/2026