

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

Case No.: 139/PW/2018

Exh. 4

The State of Maharashtra,
through Police Station Officer,
Bandra Railway Police Station,
Mumbai,

.... PROSECUTION

VERSUS

1) Mohd. Imran Ibrahim Mansuri @ Mamma,
Age 25 years,
R/o.: Room No. 567, Nayanagar Zopadpatti,
Mahim (W), Mumbai.

2) Shakil Ibrahim Khan, Age 31 years,
R/o.: Bharat Nagar Zopadpatti, Islampura,
Plot No. 9, Bandra (E), 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 05th day of July, 2018)

The accused in the dock is charged with the offence punishable under section 379, 75 read with 34 of the Indian Penal Code.

2] Brief is stated the case of prosecution is that on 09.01.2018 at about 20.35 hours the informant Ms. Brinda Arvind Chandarana was travelling in local train. At that time his mobile handset, MI comapny made was stolen. Therefore, he filed report with police station Bandra (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. 58/2018. The investigating officer Mr. N. S. Chavan, Police Hawaldar, Batch No. 275, Police Station Bandra (railway) investigated into the matter. He recorded statements of the witnesses as per their says, further, he seized mobile handset, MI 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 for the offence punishable under section 379, 75 read with 34 of the Indian Penal Code.

3] I framed the charge against the accused for the offence punishable under section 379, 75 read with 34 of the Indian Penal Code vide Exh. 2. The contents of charge were readover and explained to the accused in vernacular. The accused pleaded guilty.

4] The points for determination alongwith my findings thereon :

<u>POINT</u>	<u>FINDINGS</u>
01) Whether the prosecution proves that the accused intending to take dishonestly mobile handset, MI Company made of the informant Ms. Brinda Arvind Chandarana without his consent moved the same in.... order to such taking?	<u>Yes.</u>
02) Whether the prosecution proves that the accused have committed the same offence on 09.01.2018, 16.11.2013 and 04.01.2018 and they are.... convicted for the same?	<u>Yes.</u>

03) What order?

.... **The accused is convicted.**

AS TO POINT NOS. 01 AND 02 :

5] The accused pleaded guilty. Therefore, the prosecution has proved that the accused has intending to take dishonestly mobile handset, MI Company made of the informant Ms. Brinda Arvind Chandarana without her consent moved the same in order to such taking. It is also proves that the accused have previously convicted for the same offence and the same conviction is in force. Therefore, I answer point No. 01 & 2 in the affirmative.

AS TO POINT NO. 03 :

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. They submits that they are poor and orphan person. Therefore, they prayed for leniency. The Learned APP Mrs. S. P. Shetty submits that the accused has severely punished, as per the law. Considering the submission of the accused, in my view, lenient view will have to be taken, while passing the sentence.

07) The seized mobile handset, MI Company made already given to the informant Ms. Brinda Arvind Chandarana on indemnity bond. Considering fact of the case in my view, the informant shall retained seized article, which is taken by them on indemnity bond and her 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) Accused no. 1 Mohd. Imran Ibrahim Mansuri @ Mamma, Age 25 years, R/o.: Room No. 567, Nayanagar Zopadpatti, Mahim (W), Mumbai & accused no. 2 Shakil Ibrahim Khan, Age 31 years, R/o.: Bharat Nagar Zopadpatti, Islampura, Plot No. 9, Bandra (E), Mumbai are convicted for the offence punishable under section 379 of Indian Penal Code and they are sentenced to suffer rigorous imprisonment for 07 (Seven) Months vide section 241 of the Code of Criminal Procedure, 1973.

(02) The accused are further convicted for the offence punishable under section 75 of the Indian Penal Code and they are sentenced to suffer rigorous imprisonment for 03 (Three) Months vide section 241 of the Code of Criminal Procedure, 1973.

(03) Both the sentences shall run concurrently.

(04) Set off be given to the accused under section 428 of the Code of Criminal Procedure from 09.01.2018 till date.

(05) The seized mobile handset, MI made shall be retained by the informant Ms. Brinda Arvind Chandarana, R/o. Jain Udyog Gruh, Ladies Hostel, Charni Road East, Mumbai and Permanent Address : G/1, Bhagyoday, Kalpataru Hsg. Society, Umergaon, Dist. Valsad, State – Gujarat and her indemnity bond will be cancelled, after appeal period is over.

Date : 05.07.2018

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