

**IN THE COURT OF MS. JASMINE PREET KAUR, JMIC, SONEPAT (UID
No. HR0648)**

HRSO030046592018



Presented on : 02-06-2018
Registered on : 02-06-2018
Decided on : 17-07-2026
Duration : 8 years, 1 months, 15 days

**IN THE COURT OF
Judicial Magistrate - Ist Class
AT Sonipat, Sonipat
(Presided Over by Ms. Jasmine Preet Kaur)**

CHI/738/2018

State Versus 1. Samsudhin s/o Sh. Kutabudhin, r/o Mangolpuri,
Delhi (declared PO vide order dated 04.12.2023).
2. Karan s/o Sh. Rajender, r/o H. No. 99D, Block
Number 2, Mangolpuri, Delhi.
3. Akash @ Kattu s/o Sh. Sattu @ Satpal, r/o Block -
F, Jhugi Mangolpuri, Chankya Puri, Delhi
(declared PO vide order dated 04.12.2023).

..... Accused persons

FIR No. 0114 dated 08.03.2018
U/S: 379, 511 of The Indian Penal
Code, 1860
P.S.: Sadar, Sonapat.

Represented by:- Sh. Parag, Ld. APP for the State assisted by Sh. Bharat
Bhushan, Advocate for the complainant.
Accused Karan on bail represented by Sh. R. M. Kaushik,
Advocate.
Accused Samsudhin and Akash declared PO vide order
dated 04.12.2023.

JUDGMENT:

(Jasmine Preet Kaur)
JMIC, Sonapat
UID No. HR-0648
17.07.2026

The above named accused have been sent up to stand trial by the Station House Officer, Police Station Sadar, Sonapat for the commission of offence punishable under Sections 379, 511 of The Indian Penal Code, 1860 (hereafter IPC).

2. Brief facts of the case as per the story of the prosecution are that on 08.03.2018, the complainant, Kajal Kinnar, resident of near Shubham Garden, Sonipat, appeared at Police Station Sadar, Sonipat and submitted a written complaint alleging that she had been rearing sheep and goats and that her animals had been stolen on four earlier occasions. She alleged that on 05.03.2018, four persons came in a Santro car to her plot situated near her house with an intention to steal her animals. She identified one of them as Samsudhin son of Qutbuddin, resident of Mangolpuri, Delhi. According to the complainant, she attempted to apprehend the accused, but he managed to flee. She accordingly requested legal action against the persons who had allegedly attempted to steal her animals. On the basis of the said complaint, the present FIR was registered for the offences mentioned therein and investigation was entrusted to ASI Naresh Kumar. During investigation, the investigating officer inspected the place of occurrence and recorded the statements of the witnesses. On 11.03.2018, accused Samsudhin alias Ramzan son of Qutbuddin Shah, resident of Mangolpuri, Delhi, and accused Karan alias Jony son of Rajender, resident of Mangolpuri, Delhi, were arrested in accordance with law. Their disclosure statements were recorded. They were produced before the Court and

two days' police custody remand was obtained. During the remand, a white Santro car bearing registration No. DL-3C-AB-7530 was allegedly recovered at the instance of accused Shamsuddin alias Ramzan, and the accused also got the place of occurrence identified. After completion of investigation qua the said accused, the challan was prepared and presented before the Court on 02.06.2018.

During further investigation, on 14.06.2018, accused Shah alias Kattu son of Satpal alias Sattu, resident of F-Block, Mangolpuri, Delhi, was arrested in accordance with law on the basis of sufficient material collected against him. His disclosure statement was recorded and he also got the place of occurrence identified. Thereafter, finding sufficient evidence against accused Akash alias Kattu (as mentioned in the police report), the investigating agency prepared the supplementary/final challan against him and submitted the same before the Court in accordance with law.

3. Copy of Challan and other relevant documents were supplied to the accused free of costs as envisaged under Section 207 of The Criminal Procedure Code, 1973 [hereinafter Cr.P.C. (corresponding to Section 230 of Bharatiya Nagrik Suraksha Sanhita, 2023 (hereinafter B.N.S.S.)).

4. A prima facie case under Section 379 r/w 511 of IPC was found to exist against the accused and they were charge-sheeted accordingly to which they pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution has examined following

witnesses:-

Sr. No.	List of witnesses	Name of witnesses
1.	PW-1	Kajal (complainant)
2.	PW-2	Shannazar
3.	PW-3	ASI Manoj Kumar
4.	PW-4	SI Suresh Chander
5.	PW-5	SI Naresh

Thereafter, evidence of the prosecution was closed by Ld. APP for the State, vide his separate recorded statement dated 12.06.2026.

6. On conclusion of prosecution evidence, all the incriminating material was put to the accused Karan while he was examined under Section 313 Cr.P.C. wherein he denied each of the prosecution allegation and pleaded to be innocent. Accused Karan opted to lead evidence in his defence, however no evidence was led and it was closed by the accused, vide his separate recorded statement of even date.

7. I have heard the contentions of Id. APP for the State as well as defence counsel. I have also perused the record carefully and minutely.

8. In the present case, the allegations against the accused are qua the commission of the offence punishable under Sections 379 r/w 511 of the IPC. The prosecution has relied upon the deposition of as many as **five** witnesses.

9. PW-1 Kajal, Chela Ginni (complainant), deposed that in the year 2018, she had been rearing sheep and goats and that her animals had been stolen on three earlier occasions. She alleged that one day, she saw a DL-

registered car near her plot, situated near her house, with the intention of stealing her animals. On suspicion, they went to their plot and saw five to six boys stealing their sheep and goats. They tried to apprehend them and were able to catch one person, while the others fled from the spot. The apprehended person disclosed his name as Samsudhin. Thereafter, she filed a complaint Ex. PW1/A with the police, which bears her signature at Point-A. She further identified accused Karan, who was present in the Court, whereas the other accused were not present.

In her cross-examination, she deposed that the complaint Ex. PW1/A was written by her. She admitted that she had mentioned the name of accused Samsudhin in her complaint and had not mentioned the name of any other accused.

10. PW-2 Shannazar deposed that in the year 2018, accused Karan and Samsudhin had stolen their sheep and goats on three occasions. On the third occasion, they tried to apprehend them, but they fled from the spot after showing a knife. He further deposed that on the fourth occasion, they apprehended the accused when they were in a Santro car. He identified accused Karan, who was present in the Court.

In his cross-examination, he deposed that he had made the same statement before the police as he had made in the Court. However, he admitted that when his statement was recorded by the police, the name of accused Karan was not mentioned therein. He further stated that he had apprehended accused

Samsudhin and had handed him over to the police.

11. PW-3 ASI Manoj Kumar deposed that on 11.03.2018, he was posted as Head Constable at Police Station Sadar, Sonapat. On that day, he accompanied ASI Naresh Kumar during the investigation of the present case, when accused Samsudhin and Karan were arrested. Thereafter, the disclosure statements of accused Samsudhin and Karan were recorded vide memos Ex. PW3/A and Ex. PW3/B, respectively, which bear his signatures as a witness. On 12.03.2018, at the instance of accused Samsudhin, car bearing registration No. DL-3CAB-7530 was recovered from Mangolpuri, Delhi, vide recovery memo Ex. PW3/C. Thereafter, both the accused demarcated the place of occurrence vide memo Ex. PW3/D. On 14.06.2018, accused Akash @ Kattu was arrested from Mangolpuri, Delhi, and his disclosure statement was recorded vide memo Ex. PW3/E. The place of occurrence was thereafter demarcated at his instance vide memo Ex. PW3/F. Accused Karan is not present in the Court. (It is pertinent to mention here that an exemption application has been moved on his behalf, which was allowed, subject to the condition that the accused shall not dispute his identity.)

In his cross-examination, he deposed that no private witness was ready to join the investigation and, thereafter, he left the spot.

12. PW-4 SI Suresh Chander deposed that on 08.03.2018, he was posted at Police Station Sadar, Sonapat, on SDO duty. On that day, complainant Kajal submitted a complaint, on the basis of which he registered the FIR Ex.

PW4/A and made endorsement thereon vide Ex. PW4/B. On 22.05.2018, Inspector/SHO Dalbir Singh prepared the challan and presented the same before the Court, and he identified his signatures thereon.

In his cross-examination, he denied the suggestion that the FIR was ante-dated and ante-timed.

13. PW-5 SI Naresh deposed that on 08.03.2018, he was posted as ASI at Police Station Sadar, Sonapat. On that day, he prepared the site plan Ex. PW5/A. On 11.03.2018, he arrested accused Samsudhin and Karan, and their disclosure statements were recorded vide memos Ex. PW3/A and Ex. PW3/B, respectively. On 12.03.2018, the vehicle bearing registration No. DL-3CAB-7530 was taken into police possession vide memo Ex. PW3/C, and the sketch of the place of recovery was prepared vide Ex. PW5/B. Thereafter, the place of occurrence was demarcated vide memo Ex. PW3/D. Thereafter, on 22.05.2018, the challan against accused Samsudhin and Karan was prepared by SHO Dalbir Singh. Subsequently, on 14.06.2018, he arrested accused Akash @ Kattu in accordance with law and recorded his disclosure statement vide memo Ex. PW3/E. The place of occurrence was thereafter demarcated at his instance vide memo Ex. PW3/F. After completion of the investigation, the challan was prepared by SHO Dalbir Singh, whose signatures thereon he identified. (It is pertinent to mention here that an exemption application has been moved on behalf of the accused, which was allowed, subject to the condition that the accused shall not dispute his identity.)

In his cross-examination, he admitted that the signatures of any public witness were not obtained on the disclosure statements.

14. **The point for determination in the present case is as under: -**

A. Whether the above named accused have admitted to commit theft of animals from complainant's plot, however, could not succeed in the same due to some reasons not in your control and thereby committed an offence punishable under Section 379 r/w 511 of The Indian Penal Code, 1860?

15. *The answer to the above-mentioned point for determination is:-*

A. *No.*

APPRAISAL OF POINT OF DETERMINATION:-

16. In the present case in hand, the accused has been charged under Section 379, 511 of IPC. Section 379 IPC provides the punishment for theft. The definition of "theft" has to be derived from Section 378 IPC which states that:-

"Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft."

17. In the case in hand, the accused has been charged for the offence punishable under Section 379 read with Section 511 IPC, with the allegation that he attempted to commit theft of sheep and goats from the plot of the complainant but could not succeed.

18. In order to prove the allegations, the prosecution has mainly relied

upon the testimony of PW-1 Kajal and PW-2 Shannazar. However, PW-1 admitted that in her complaint Ex. PW1/A, she had named only accused Samsudhin and had not mentioned the name of accused Karan. Similarly, PW-2 admitted that the name of accused Karan was not mentioned in his statement recorded by the police. Such material omissions create a serious doubt regarding the subsequent identification and involvement of accused Karan.

19. Further, no animal allegedly sought to be stolen was recovered from the accused. The alleged recovery of Santro car at the instance of accused Samsudhin does not establish the involvement of accused Karan. The prosecution has also failed to examine any independent public witness to corroborate the alleged occurrence. The recovery allegedly effected from the accused becomes highly doubtful without independent corroboration and in this regard reliance can be placed on judgment of *Hon'ble High Court reported as Bahadur Singh vs. The State of Haryana Crl. Appeal No.812-SB of 2001 decided on 5th November, 2008* wherein Hon'ble Punjab & Haryana High Court held that it was imperative on the part of investigating officer to join an independent witness, at the time of alleged search and seizure or at least to make a genuine, sincere and real effort, to join such a witness. The search and seizure before an independent witness would have imparted much more authenticity and creditworthiness, to the proceedings, so conducted. The failure to do so must be viewed with suspicion.

Furthermore, in the case of prosecution, no independent public witness was

examined despite the fact that place on where recovery is shown to have been effected was crowded place and numerous people of public remains around. *“No public person/independent witness was joined in the investigation despite availability. No satisfactory explanation has been furnished in this regard from the side of the prosecution. So, non joining of an independent witness causes serious doubt in the story of prosecution especially in the circumstances when case started from the testimonies of police officials and so without joining independent witness, a serious doubt is created about the veracity of prosecution case.”* This view of mine is supported by case titled Sahib Singh Vs. State of Punjab, 1997 (2) CCJ (SC) 244.

20. There is not even an iota of evidence on record to prove that the investigating officer even made any effort to join any member of public as witness in the present case. Section 103 BNSS (previously known as 100 Cr.P.C.) provides that the investigating officer shall make effort to join independent witnesses in the investigation and if any such person refuses to be a witness then the investigating officer shall serve a notice under Section 103 BNSS (previously known as 100 Cr.P.C.) upon such person for not joining the investigation. There is no such notice on record which prima facie shows that the investigating officer ever made any effort to join any independent witness investigation of the present case.

21. It is therefore apparent that the prosecution has failed to establish any specific overt act on the part of accused Karan towards the commission of

theft. The evidence led by the prosecution raises, at the most, a suspicion regarding his involvement, which cannot substitute proof beyond reasonable doubt.

22. It is thus, amply clear that the prosecution witnesses have miserably failed to prove the charge against the accused beyond any reasonable doubt and failed to bridge the gap between “allegations” and “proof”. It is a cardinal principle of Criminal Jurisprudence that accused are presumed to be innocent until proven guilty and, therefore, the burden lies on the prosecution to prove the guilt of the accused beyond reasonable doubt. The prosecution is under a legal obligation to prove each and every ingredient of the offence beyond any doubt, unless otherwise so provided by any statute. Strongest of suspicion does not constitute the proof required.

23. No doubt wrongful acquittals are undesirable and shake the confidence of the people in the judicial system, much worse, however, is the wrongful conviction of an innocent man, the consequences of conviction of an innocent man are far more serious and its reverberations cannot but be felt in a civilized society, therefore, it is the duty of the court to avoid any wrongful convictions and to grant benefit of doubt wherever the need arises.

24. For the aforesaid reasons, the only conclusion which can be drawn is that the prosecution has not been able to prove the case beyond reasonable doubt as prosecution evidence could not sufficiently prove the guilt of the accused.

25. In view of the above discussion, this Court is of the considered opinion that the prosecution has failed to prove the charge under Section 379 read with Section 511 IPC against accused Karan beyond reasonable doubt and the accused Karan is hereby **acquitted** of the charges leveled against him.

26. In compliance with Manojbhai Jethabhai Parmar (Rohit) versus State of Gujarat (2025 INSC 1433), and in order to ensure a systematic presentation of evidence that enables efficient appreciation of the record, below are the tabular description of witnesses examined, documents exhibited and material objects produced during the trial.

APPENDIX A

Prosecution Witnesses Examined:-

Sr. No.	Name of Witnesses	Description
1.	PW-1 Kajal	Complainant
2.	PW-2 Shannazar	Eyewitness
3.	PW-3 ASI Manoj Kumar	Witness to arrest, disclosure statements, recovery and demarcation proceedings
4.	PW-4 SI Suresh Chander	Duty Officer; registered the FIR
5.	PW-5 SI Naresh	Investigating Officer

APPENDIX B

Prosecution Exhibits:-

Exhibit No.	Description of the Exhibited Documents	Proved by/Attested by
Ex. PW1/A	Complaint	PW-1 Kajal
Ex. PW3/A	Disclosure statement of accused Samsudhin	PW-3 ASI Manoj Kumar
Ex. PW3/B	Disclosure statement of accused Karan	PW-3 ASI Manoj Kumar
Ex. PW3/C	Recovery memo of Santro car bearing registration No. DL-3CAB-7530	PW-3 ASI Manoj Kumar
Ex. PW3/D	Memo regarding demarcation of place of occurrence	PW-3 ASI Manoj Kumar
Ex. PW3/E	Disclosure statement of accused Akash @ Kattu	PW-3 ASI Manoj Kumar
Ex. PW3/F	Memo regarding demarcation of place of occurrence at the instance of accused Akash @ Kattu	PW-3 ASI Manoj Kumar
Ex. PW4/A	FIR	PW-4 SI Suresh Chander
Ex. PW4/B	Endorsement on complaint/FIR	PW-4 SI Suresh Chander
Ex. PW5/A	Site plan of place of occurrence	PW-5 SI Naresh
Ex. PW5/B	Sketch/site plan of place of recovery	PW-5 SI Naresh

27. Case property, if any, be dealt with, in accordance with law. Bail bonds and surety bonds furnished stands extended for a further period of 6 months, and in case no appeal is preferred after lapse of 6 months, same stands

discharged. It is pertinent to mention here that accused Samsudhin and Akash declared proclaimed person vide order dated 04.12.2023. In view of the same, file be consigned to record room after due compliance with red ink note that file be not destroyed and put up on the arrest of accused.

Pronounced in Open Court:
Date of Order: 17.07.2026

(Jasmine Preet Kaur)
Judicial Magistrate Ist Class, Sonipat
UID NO . HR0648

Note: It is certified that this order contains **14** pages and each page has been signed by me.

Pronounced in Open Court:
Date of Order: 17.07.2026

(Jasmine Preet Kaur)
Judicial Magistrate Ist Class, Sonipat
UID NO . HR0648

Mamta Verma, Stenographer Gr. II

(Jasmine Preet Kaur)
JMIC, Sonapat
UID No. HR-0648
17.07.2026