

**IN THE COURT OF METROPOLITAN MAGISTRATE,  
36<sup>th</sup> COURT, MUMBAI CENTRAL, MUMBAI.**

**Case No.: 89/PW/2018**

**Exh. 4**

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

**.... PROSECUTION**

**VERSUS**

Mohammad Shahid Mohammad Rahim Shaikh,  
Age 19 years, R/o.: Footpath, Mahim Phatak,  
Public Bridge, Mahim, Mumbai.

**.... ACCUSED**

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

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

(Delivered on 13<sup>th</sup> 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 09.12.2017 at about 23.30 hours the informant Mr. Suraj Ganpat Sangale was travelling in up Churchgate slow local train. At that time his mobile handset, Samsung made was stolen by the accused. Thereafter, the accused started to flee. The cops of Railway Protection Force caught the accused. Therefore, the informant filed report with police station Mumbai Central (railway). On the basis of his report and offence punishable

under sections 379 of the Indian Penal Code was registered against the accused vide Crime No. 1516/2017. The investigating officer Mr. A. D. Randive, PSI, Police Station Mumbai Central (railway) investigated into the matter. He recorded statements of the witnesses as per their says, further, he seized mobile handset, Samsung 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 sections 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 :

| <b><u>POINT</u></b>                                                                                                                                                                                                      | <b><u>FINDINGS</u></b>                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| 01) Whether the prosecution proved that the accused intending to take dishonestly mobile handset, Samsung made of the informant Mr. Suraj Ganpat Sangale without his consent moved the same in order to such taking? ... | <b><u>Yes.</u></b>                      |
| 02) What order? ....                                                                                                                                                                                                     | <b><u>The accused is convicted.</u></b> |

**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, Samsung made of the informant Mr. Suraj Ganpat Sangale 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 person and only earning member of his family. 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, Samsung 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, Samsung made already given to the informant Mr. Suraj Ganpat Sangale 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 Mohammad Shahid Mohammad Rahim Shaikh, R/o.: Footpath, Mahim Phatak, Public Bridge, Mahim, Mumbai, is convicted for the offence punishable under section 379 of Indian Penal Code and he is sentenced to suffer rigorous imprisonment for 08 (Eight) 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 10.12.2017 till date.

(03) The seized mobile handset, Samsung made shall be retained by the informant Mr. Suraj Ganpat Sangale, R/o.: Room No. 106, Mangla Lalkya Ghatal Compound, Shivani Society, Kurar Village, Malad (E), Mumbai and his indemnity bond will be cancelled, after appeal period is over.

Sd/-

**(S. R. Narwade)**

Metropolitan Magistrate  
36<sup>th</sup> Court, Mumbai Central,  
**Mumbai.**

Date : 13.07.2018