

GR 5385 of 2010

**IN THE COURT OF THE JUDICIAL MAGISTRATE,
1st COURT, HOWRAH**



Present: DISHA BARAI
(J.O. Code No.WB01420)
Judicial Magistrate,
1st Court, Howrah

JUDGMENT DATED 27th JULY, 2026

G.R. Case No. 5385 of 2010
CIS 2163 of 2015
CNR No. WBHW04-002535-2010
T.R. Case No. 225 of 2011

Sankrail No. 645/2010 dt. 24.11.2010
U/S. 448/323/427/506/34 of I.P.C.

Defacto- Complainant	Sk Mesbahauddin
Respresented by	Ld. APP
Accused	(1) Sk Korban (2) Sk Anowar (3) Sk Ansar (4) Arjan Bibi (5) Sk Jakir (6) Sk Nazir
Represented by	Ld. Advocate Badrul Mondal

Date of Offence	18.11.2010
Date of FIR	24.11.2010
Date of Charge sheet	31.12.2010
Date of Framing of Charges	09.12.2014
Date of commencement of Evidence	17.06.2015
Date of the Judgment	27.07.2026
Date of the Sentencing Order, if any	Not applicable

GR 5385 of 2010

Accused details:

Rank of the accused	Name of accused	Date of arrest	Date of release	Offenes charged with	Whether acquitted or convicted	Sentence imposed	Period of detension undergone during trial for purpose of ection 427 Cr.P.C.
01. 02. 03. 04. 05. 06.	Sk Korban Sk Anowar Sk Ansar Arjan Bibi Sk Jakir Sk Nazir	Surrendered on 03.12.2010	03.12.2010	u/s. 448/323/427/506/34 IPC	acquitted	N.A	NIL

**LIST OF PROSECUTION/ DEFENCE/
COURT WITNESSES**

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW1	Sk Mesbahauddin	Defacto complainant
PW2	Sk Meharaj	Witness

B. Defence witness

RANK	NAME	NATURE OF EVIDENCE (EYE Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
DW1	N.A.	N.A

C. Court witness, if any.

RANK	NAME	NATURE OF EVIDENCE (EYE Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
CW1	N.A.	N.A

**LIST OF PROSECUTION/
DEFENCE/ COURT EXHIBITS**

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit -1	The information in writing
2	Exhibit -1(1)	The signature on the document by the witness

GR 5385 of 2010

B: Defence :

Sr. No.	Exhibit Number	Description
1	Exhibit D-1/DW 1	N.A.

PREFACE

A brisk venture into the factual aspects of this case is undergone in order to appreciate the case in its proper perspective.

The prosecution case, in brief, is that on 24.11.2010 the O.C. of Nazirguanj I.C under Sankrail PS received a written complaint from one Sk. Mesbahauddin that on 18.11.2010 around 12.30pm, the accused persons broke the grill and lock of the house of the de facto complainant and stole Rs.47,500/-, one bhoori of gold chain, 1.5 bhoori of one pair of gold bangle and one gold earring and one mobile. They also destroyed the window of the house and almirah and five stitching machine. Seeing the same when the brother of the de facto complainant namely, Sk. Meheraj trying to stop the accused persons, they pushed him and abused him in filthy language and threatened him with dire consequences.

On the basis of the said written complaint, the concerned O.C. started Sankrail No. 645/2010 dt. 24.11.2010 U/S. 447/323/427/506/379/34 of I.P.C. against the accused persons and the I.O. of the case took up the investigation and after completion of the investigation he submitted the charge sheet U/S. 448/323/427/506/34 of I.P.C. dated 31.12.2010 vide charge sheet no. 636/2010 against the accused persons. The Ld. C.J.M., Howrah took cognizance of the offence and transferred the case to this court for disposal.

On 09.12.2014 charge was framed U/s. 448/323/427/506/34 of I.P.C against the accused persons to which they pleaded not guilty and claimed to be tried.

On the other hand, the defence case is that of total denial of prosecution case. It is also the case of the defence that the accused persons has been falsely implicated by the complainant in this case.

POINTS FOR DETERMINATION

1) Whether the prosecution has been able to prove the case against the accused persons beyond all reasonable doubt?

GR 5385 of 2010

2) Whether the accused persons can be convicted under sections 448/323/427/506/34 of the I.P.C ?

EVIDENCE

In order to prove its case, the Prosecution has examined two witnesses namely, Sk Mesbahauddin the defacto complainant as P.W. 1 and Sk Meharaj as P.W. 2.

PW 1 is the defacto complainant. During his evidence he has stated that On 18.11.10 about 12.20 p.m the accused persons together broke the padlock his residence trace pass into the same and committed theft of Rs.47,500/- from a box kept inside the room. They had committed theft of one bhorī gold neck chain, bala (wrist ornaments) weighing 1.5 bhorīs, earring. They have damaged a mobile phone, almirah a doors of windows of the residential room. Sk. Meheraz reached the place of occurrence. The accused persons pushed and drove him out. He was not at home. The accused persons intimidated him by saying, "once their elder brother comes he would be murdered". He reported the incident to the police on that very day at the evening and a GDE was lodged in connection therewith. He lodged the information in writing subsequently. This is the information in writing reduced in writing under my own hand and he had put his signature on it. The document identified as the information in writing is marked as Exhibit 1. This is his signature. The signature on the document identified by the witness as his own is marked as Exhibit 1(1).

During his cross examination he has stated that he make ready made garments for living. He work for home. At the time of occurrence he was at George Telegraph receiving training on mobile technology at Konnagar. He used to travel three days of week to Konnagar from home. He returned home at 2.30 p.m. He was informed about the incident by Sk. Sajat, Sk. Ismat Ara Begum, Sk. Sadek Ali over phone. The information in writing does not mention that he was informed about the incident over phone by the aforesaid persons. The police station received his information in writing on 24.11.10. It was received at 8.30 .m. He had mentioned date on the information in writing. Nobody dictated him the content of the information in writing. Sk. Jahir, More Selim, Sk. Alauddin and the accused persons reside in the close neighbourhood of the place of occurrence and that the place of occurrence densely populated. The accused persons are not his

GR 5385 of 2010

relatives. He has inherited the complainant of the place of occurrence from his mother and that the property where he resides an unpartitioned property.

PW-2 stated that he does not know anything about the incident and he has come to the court as he has received the summon.

Thereafter evidence from the side of prosecution has been closed on submission of prosecution and accused persons were examined u/s 313 of Cr.P.C. Though the accused persons have declined to adduce any evidence.

DECISION WITH REASONS

It is well-settled principle of law that initially burden of proof lies upon the Prosecution in order to prove its case and, if there is any doubt the accused persons will get the benefit of that doubt.

In order to prove its case, the Prosecution has examined two witnesses namely, Sk Mesbahauddin the defacto complainant as P.W. 1 and Sk Meharaj as P.W. 2.

The main allegations against the accused persons is that in furtherance of common intention that on 18.11.2010 around 12.30pm at Panchpara Chunavati, Sankrail, they trespassed into the house of the de facto complainant and stole cash amounting Rs.47,500/-, one bhoori of gold chain, 1.5 bhoori of one pair of gold bangle and one gold earring and one mobile and criminally intimidated him.

The PW 1 who is the defacto complainant and the PW2 could not give any concrete statement regarding the incident and the manner in which the accused persons committed the alleged offence and also the role played by the accused persons or his involvement in the commission of the crime. There is a significant lack of evidence to support the allegations against the accused persons and huge discrepancies are present in uncorroborated statements given by the witnesses. Along with the lack of material evidence, there is also inconsistent statements regarding the incident and there is also contradiction between the written complaint and deposition given by the defacto complainant.

Nothing has been seized from the custody of the accused persons. Neither any medical document has been produced before this court nor any doctor was examined in this case. Except the defcato complainant, the prosecution has failed to bring any relevant witness before this court even after proper issuance of the summons. Neither the investigation nor the place of occurrence has also not been proved before this court.

GR 5385 of 2010

In light of the evidence presented and the court's thorough examination of the case, it is evident that there is a substantial lack of reliable evidence in support of the prosecution's case. Based on the findings and observations made, the court has reached a clear and unequivocal conclusion.

This court has determined that the evidence provided by the prosecution side does not instill any confidence in the mind of this court regarding the merits of the charges U/s. 448/323/427/506/34 of I.P.C. leveled against the accused person. This court has pointed out significant issues with the evidence, including contradictions and exaggerations, which do not align with the actual truth of the matter.

Consequently, this court has no choice but to acquit all the accused person. This decision is primarily based on the principle of "benefit of doubt", which is a fundamental legal concept. When there is uncertainty or doubt about a accused person's guilt, the law generally favors the accused by acquitting them rather than imposing a conviction.

In summary, the prosecution's case has failed to meet the legal standard of proving guilt beyond a reasonable doubt. As a result, the accused person is entitled to an order of acquittal, as the evidence presented does not support the charges against them. This conclusion reflects the principles of justice and fairness that underlie the legal system.

Hence, it is

O R D E R E D

that the accused persons namely, (1) Sk Korban, (2) Sk Anowar, (3) Sk Ansar, (4) Arjan Bibi, (5) Sk Jakir and (6) Sk Nazir are found not guilty of the offence U/s. 448/323/427/506/34 of I.P.C. and they are acquitted U/s. 255(1) of Cr.P.C. They are also discharged from their respective bail bonds.

The seized alamats, if any, be destroyed subject to the time of Appeal.

Send the copy of this Judgment to the defacto complainant/victim through the District Magistrate, Howrah.

Dictated and correct by me

Sd/-

Judicial Magistrate,
1st Court, Howrah

Sd/-

(DISHA BARAI)
(JO Code WB01420)
Judicial Magistrate,
1st Court, Howrah

GR 5385 of 2010

Order dated 27.07.2026

Today is fixed for examination of the accused persons u/s. 313 of Cr.P.C.

Accordingly the accused persons are examined U/s. 313 Cr.P.C.

The answers given by the accused persons U/s. 313 Cr.P.C. have been recorded in separate prescribed format which is kept with the record.

During examination U/s.313 Cr.P.C the accused persons stated that they would not adduce any D.Ws in support of his case.

Hence, the DW is closed today.

At this stage, the Ld. Advocates of both side submitted that they are ready for argument.

Heard the Ld. Advocates of both sides in full.

Now the record is taken up for passing of final order and Judgment. The accused persons are directed to be present before this court later today at 2.30 p.m. for delivery of judgment.

Dictated and correct by me

Sd/-

Judicial Magistrate.

1st Court, Howrah

Sd/-

Disha Barai

(JO Code WB01420)

Judicial Magistrate.

1st Court, Howrah

Later 2.30 PM

The accused persons are present before this court.

Ld. A.P.P. and Ld. Advocate for the accused persons are also present.

The case record is taken up for delivery of judgment.

The judgment is ready and pronounced in open court.

The judgment is written in separate sheets which is kept with the case record. The operative portion of the judgment is given herein below.

Hence, it is

O R D E R E D

that the accused persons namely, (1) Sk Korban, (2) Sk Anowar, (3) Sk Ansar, (4) Arjan Bibi, (5) Sk Jakir and (6) Sk Nazir are found not guilty of the offence U/s. 448/323/427/506/34 of I.P.C. and they are acquitted U/s. 255(1) of Cr.P.C. They are also discharged from their respective bail bonds.

The seized alamats, if any, be destroyed subject to the time of Appeal.

Send the copy of this Judgment to the defacto complainant/victim through the District Magistrate, Howrah.

Dictated and correct by me

Sd/-

Judicial Magistrate.

1st Court, Howrah

Sd/-

Disha Barai

(JO Code WB01420)

Judicial Magistrate.

1st Court, Howrah