

**In The Court of The Judicial Magistrate at Bidhannagar
District -North 24 Parganas**

Present: Nishan Mazumdar
Judicial Magistrate,
Bidhannagar, District- North 24 Parganas

G.R. CASE NO. 1963/2005
CIS registration no. 385/2023
CNR No. WBNP05-002919-2023

State of West Bengal

.....Complainant

Vs

Ganesh Prasad Rajbhar

.....Accused person

Under Section:- 379 of Indian Penal Code

Date of delivery of Judgment:- 05.03.2026

JUDGMENT

The instant case is under section 379 of Indian Penal Code. This case was initiated on the basis of the written complaint lodged by the de-facto complainant Parimal Chandra Saha dated 05.04.2004.

In nutshell, the case of the prosecution, as transpires from the written complaint of the de-facto complainant, is that when he was returning to his house after withdrawing money from Bank of India, Bangur Branch, the accused person threw powder towards him and took money and bank pass-book from him. Then he lodged complaint at concerned P.S. and on the basis of the complaint this case has been initiated registering Lake Town P.S. case no.76, dated 05.04.2004, under Section 379 of IPC.

Subsequently, the enquiry has been conducted by the I.C. of this case and charge sheet has been filed against the accused person namely Gopal Chandra Das being charge-sheet no.168 dated 30.11.2004, under Section 379 of I.P.C.

The accused person facing the trial were examined as per the provisions of Section 240 of Criminal Procedure Code and the substance of the acquisition with allegations under Sections 379 of I.P.C was read over and explained to the accused person to which accused person pleaded not guilty by saying 'ami nirdosh' and claimed to be tried.

Evidence on Record

At the time of submission of the charge sheet there were as many as eight witnesses were cited on part of the prosecution in order to establish the case. But during the trial the prosecution adduced only one witness namely Parimal Chandra Saha as PW1. The prosecution has failed to adduce any other witness on their part.

PW-1 Parimal Chandra Saha : The PW-1 is the de-facto complainant of this case and during his examination-in-chief, he stated that 18-19 years ago on 4th April when the PW-1 was coming back to his house from Bank of India, Bangur Branch after withdrawing money from the bank, he noticed three persons were standing on the road side and among them one person was sitting near the P.W-1 when he was in the bank. When the PW-1 reached near them, they threw powder towards him and took money and cheque book. They snatched away money of Rs.15,000/- to Rs.20,000/- from P.W-1. Then the P.W1 went to the concerned P.S. and lodged complaint in this respect. During investigation the accused persons were caught and police recovered some money from them.

During cross-examination of PW-1 he stated that he could not remember whether any amount had been mentioned in the FIR or not. After perusal of FIR the P.W1 stated that it has been mentioned in the FIR the amount of Rs.15,000/- to Rs.20,000/-. The P.W.-1 was not called for Test Identification Parade to identify the suspect.

Documents Exhibited.

Exhibit-1 : The FIR.

Exhibit-1/1 : Signature of PW1 on the FIR.

Examination of the accused u/s. 313 of CrPC

The person was examined as per provisions of Section 313 of criminal procedure code and he denied all the contents and on being asked to the accused person as to whether he was willing to adduce any evidence on his part, on that, the accused person submitted not to adduce any evidence on his part and accordingly no witness was examined and nothing is exhibited on part of the accused person in this case.

Points for Determination

1. Is the accused person guilty of offence under sections 379 of I.P.C. ?
2. Whether the prosecution is able to prove its case beyond reasonable doubt?

Decision with reasons.

I heard learned A.P.P. for the State.

I heard learned advocate for the accused person.

I perused the oral and documentary evidences and other materials available on the record.

To bring allegations under Sections 379 of I.P.C it is required to be proved that the accused person committed theft.

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Here in this case the allegation is that when the de-facto complainant was returning to his home, after withdrawing money from the bank, the accused persons threw powder towards him and took his money and bank pass-book.

But during deposition of the de-facto complainant as PW-1, he could not identify the accused person and could not tell the amount which has been mentioned in the FIR. He told that during investigation some money was recovered by police. But no seizure list has been exhibited in this case and no seized money has been marked Mat-exhibit. No corroborative witness or eye-witness has been adduced in this case. The de-facto complainant has no proper knowledge about the content of the FIR. No test identification parade of the accused person has been made by the de-facto complainant as identifying witness. The evidence of the de-facto complainant as sole witness of this case is found not sufficient to prove the allegations of this case against the accused person.

Thus, from the above made discussions, it has been found that the prosecution has failed to establish the allegations under Section 379 of I.P.C against the accused person. So the accused person is entitled to be acquitted from the charge of this case.

Hence, it is

ORDERED

that the accused person namely **Ganesh Prasad Rajbhar** is found not guilty of committing any offence punishable under sections 379 of Indian Penal Code. The accused person is acquitted from this case as per provisions of section 248(1) of Criminal Procedure Code and the accused person is released from his bail bond at once.

Any amount seized in connection of this case be disposed off as per the provision of law after endorsing the name of the receiver of the amount.

Typed and corrected by me.

Judicial Magistrate,
Bidhannagar, District- North 24 Parganas

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