



<p>In the Court of Judicial Magistrate, 1st Court Santaldih, Purulia Present: BASHAR NAWAZ, [J.O Code: WB01449] [On this 07th day of March, 2026] [G.R. Case No. 439 of 2010] [CIS Registration No. 1155 of 2014] CNR No.WBPU060002492010 (Arising out of Santaldih P.S. Case No. 56 of 2010 dated 14.10.2010 under section 392 of IPC)</p>	
Complainant	STATE OF WEST BENGAL THROUGH O/C Santaldih POLICE STATION
REPRESENTED BY	LD. APP
ACCUSED	1.Hemanta Hela
REPRESENTED BY	Parimal Chowdhury

Form B

[directed by the Hon'ble Supreme Court in SUO MOTO WRIT (CRL) NO. (S) 1/2017; IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES AND DEFICIENCIES IN CRIMINAL TRIALS V. THE STATE OF ANDHRA PRADESH & ORS.]

Date of Offence	14.10.2010
Date of FIR	14.10.2010
Date of Charge-sheet	31.10.2012
Charge	20.11.2025
Date of commencement of evidence	25.02.2026
Date on which judgment is reserved	07.03.2026
Date of the Judgment	07.03.2026
Date of the Sentencing Order, if any	ACCUSED PERSON HAS BEEN ACQUITTED

Accused details:

Sl.	Name of Accused	Date of Arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention on Undergone during trial for purpose of Section 428 Cr.P.C.
1.	Hemanta Hela	13.03.2011 (arrested)	01.05.2011	392 of IPC	Acquitted.	NA	NA

Form C

List of Prosecution/ Defence/ Court Witnesses

A. Prosecution:



RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
PW1	Chandan Chatterjee	Complainant

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
DW	NIL	NIL

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
CW	NIL	NIL

List of Prosecution/ Defence/ Court Exhibits

• **Prosecution:**

Exhibit Number	Description	Date
P1	Written complaint	25.02.2026
P1/1	Signature of complainant on written complaint	25.02.2026

• **Defence:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

• **Court Exhibits:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

• **Material Objects:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

JUDGMENT

The prosecution case, in brief, is that on 14.10.2010 at about 08:40 a.m., the complainant Chandan Chatterjee was proceeding towards Chauden Kiari, Jharkhand along with his friend on a motorcycle. When they reached near village Pabon under Santaldih Police Station, some miscreants allegedly intercepted them on another motorcycle and restrained them on the road. It was alleged that the miscreants were armed with improvised firearms and they forcibly snatched away the motorcycle of the complainant by putting them in fear of injury and thereafter fled away from the spot.



On the basis of the written complaint lodged by the complainant, Santaldih P.S. Case No. 56 of 2010 dated 14.10.2010 was registered under Section 392 of the Indian Penal Code and Sections 25/27/35 of the Arms Act. During the course of investigation, police arrested accused Hemanta Hela on 13.03.2011 and allegedly recovered the stolen motorcycle from his possession, which was found with a changed number plate. After completion of investigation, the Investigating Officer submitted Charge Sheet No. 18/12 dated 31.10.2012 against four accused persons namely Hemanta Hela, Bikash Mondal, Uttam Mahato and Suresh Mahato under the aforesaid sections of law.

During the pendency of the case, accused Bikash Mondal, Uttam Mahato and Suresh Mahato absconded and despite issuance of warrant of arrest and proclamation proceedings under Section 82 of the Code of Criminal Procedure, they failed to appear before the court. Consequently, by order dated 19.09.2025 they were declared proclaimed persons and the case was filed against them for the present. Thereafter, charge was framed against the accused who appeared before the court on 20.11.2025 under Section 392 of the Indian Penal Code and Sections 25/27/35 of the Arms Act, to which the accused pleaded not guilty and claimed to be tried. Subsequently, the matter proceeded for recording of prosecution evidence.

Evidence adduced

Only one witnesses in this case have been examined and cross examined as PW01. No other witness has been examined on behalf of the prosecution. It is worthwhile to mention here that this case is pending since the year 2010 and as per the mandate of Constitution speedy disposal is the fundamental right of the accused person. Moreover the case come under Track 03 as per the Case Flow Management Rules, High Court Rules 2006. Thus it is the indelible duty of this court to hoist the right of the accused person and to act in accordance with section 309 of the Criminal Procedure Code 1973 read with the Case Flow Management Rules, High Court Rules 2006 as well as the direction of the Hon'ble Supreme Court given in *Hussain and another versus Union of India, 2017[2] AICLR 362 (SC)*. Hence being pioneered by the decision of the Hon'ble Supreme Court the predecessor of this court losed the prosecution evidence and the case was fixed for examination of the accused person under section 313 of the Code of Criminal Procedure, 1973. However In short the sum and substance of the defence is plea of innocence.

After exhausting the above procedures the case was posted for hearing of arguments. On completion of arguments as per requirement of Section 354 of the Cr.P.C it is the incumbent duty of this court formulate the points for determination and assign reasons for harbouring to any conclusion on those points. After considering every possible facet in this case and considering the materials available, the points for determination as formulated are arrayed as under:

Points for determination

- 1) Whether the charges framed against the accused person have been proved or not?
- 2) Whether the accused person is liable to be convicted under section 392 of IPC?

Decision with reason

Point number 01 and 02:



In order to bring home the guilt of the accused persons, the prosecution was required to establish the charge under Section 392 of the Indian Penal Code and Sections 25/27/35 of the Arms Act beyond all reasonable doubt. The settled principle of criminal jurisprudence is that the burden lies entirely upon the prosecution to prove its case by cogent, convincing and reliable evidence. The accused persons are presumed to be innocent unless the prosecution succeeds in establishing their guilt beyond reasonable doubt.

In the present case, the prosecution examined only one witness namely PW1 Chandan Chatterjee, who is the de facto complainant and the alleged victim of the occurrence. The entire prosecution case primarily depends upon the testimony of this witness as he is the person who allegedly lodged the complaint and was present at the time of the alleged incident.

PW1 Chandan Chatterjee during his examination-in-chief clearly stated that he does not know anything about the case and he does not remember anything about the incident. He only identified his written complaint and signature which were marked as Exhibit P1 and Exhibit P1/1. Apart from identifying the complaint, this witness did not support the prosecution case in any manner. He did not state anything about the alleged robbery, the presence of the accused persons, the use of arms, or the snatching of the motorcycle. His evidence does not establish any ingredient of the alleged offences.

It is therefore evident that the complainant himself has not supported the prosecution story and has completely resiled from the allegations made in the written complaint. When the maker of the FIR does not support the prosecution case during trial, the very foundation of the prosecution case becomes extremely weak. The FIR is not a substantive piece of evidence and it can only be used for the purpose of corroboration or contradiction. Unless the contents of the FIR are proved through the testimony of its maker, the allegations mentioned therein cannot be treated as proof of the occurrence.

The Hon'ble Supreme Court has consistently held that when the star witness of the prosecution does not support the prosecution case, the prosecution case becomes doubtful. In the case of *Vijay @ Chinee v. State of Madhya Pradesh* (2010) 8 SCC 191, the Hon'ble Supreme Court held that when the material witnesses turn hostile and do not support the prosecution case, the court cannot base conviction merely on the basis of the FIR or the statements recorded during investigation.

Similarly, in *Suraj Mal v. State (Delhi Administration)* (1979) 4 SCC 725, the Hon'ble Supreme Court observed that where the prosecution witnesses do not support the prosecution case and there is no reliable evidence on record, the accused is entitled to benefit of doubt. The Apex Court observed that suspicion, however strong, cannot take the place of proof.

In the present case, PW1 is the only witness examined by the prosecution and he has completely failed to support the prosecution version. There is no other ocular evidence available on record to establish the occurrence of robbery or the involvement of the accused persons.

Another important aspect is that the prosecution has not examined the Investigating Officer. The examination of the Investigating Officer is important in order to prove the steps taken during investigation, the alleged recovery of the



motorcycle, and the circumstances under which the accused was arrested. In absence of the Investigating Officer, the prosecution has failed to prove the alleged recovery and the manner in which the investigation was conducted.

The alleged recovery of the motorcycle from the possession of accused Hemanta Hela also remains unproved. Recovery evidence becomes meaningful only when it is proved by reliable witnesses and supported by the testimony of the Investigating Officer. In absence of such evidence, the alleged recovery cannot be relied upon.

The Hon'ble Supreme Court in *Kali Ram v. State of Himachal Pradesh* (1973) 2 SCC 808 has laid down the fundamental principle of criminal law that if two views are possible on the evidence on record, the view favourable to the accused must be adopted. The Apex Court observed that the golden thread which runs through the web of criminal jurisprudence is that the prosecution must prove its case beyond reasonable doubt and if any reasonable doubt arises, the accused is entitled to the benefit of such doubt.

Further, the Hon'ble Supreme Court in *Sharad Birdhichand Sarda v. State of Maharashtra* (1984) 4 SCC 116 reiterated that the prosecution must stand on its own legs and cannot derive strength from the weakness of the defence. The prosecution must prove each ingredient of the offence by reliable evidence.

Applying these settled principles of law to the present case, it appears that the prosecution has completely failed to establish the essential ingredients of the offence under Section 392 of the Indian Penal Code. There is no reliable evidence on record to prove that the accused persons committed robbery or that they used any arms in the commission of the offence. The sole witness examined by the prosecution has not supported the case at all.

It is also well settled that conviction cannot be based on conjectures or surmises. The court must rely only on legally admissible evidence which proves the guilt of the accused beyond reasonable doubt. In the present case, there is absolutely no substantive evidence connecting the accused persons with the alleged offence.

Therefore, the prosecution has miserably failed to prove the charges under Section 392 of the Indian Penal Code and Sections 25/27/35 of the Arms Act against the accused beyond reasonable doubt. The evidence on record is wholly insufficient to establish the guilt of the accused persons.

In view of the above discussion and in light of the settled principles of criminal jurisprudence regarding appreciation of evidence and benefit of doubt, this Court is of the considered view that the prosecution has failed to prove its case beyond reasonable doubt. Accordingly, the accused persons are entitled to be acquitted from the charges levelled against them.

Hence; it is

ORDERED

that the accused person, namely 1.Hemanta Hela is found to be not guilty of committing the offence under section 392 of IPC and he is hereby acquitted of the charges framed against him as per section 248 sub-section (1) of the Criminal Procedure Code 1973. he is also discharged from the liability of his respective bail-bond and set at liberty. The surety is also discharged. Let the seized documents pertaining to this case if already not returned, be returned from whom



seized after the lapse of the period prescribed for appeal. Seized article if any; which is not claimed by the parties shall be destroyed after expiration of the period of appeal.

Be it also mentioned here that the victim of this case has a right to prefer an appeal against this order before a competent Court u/s 372 CrPC and can also seek legal assistance for such appeal from District Legal Services Authority.

Copy of this judgment of acquittal be forwarded to Secretary, DLSA, Purulia and District Magistrate, Purulia for necessary information.

Dated: 07.03.2026

Judicial Magistrate 1st Court
Santaldih, Purulia
WB01449

Typed and corrected by me;

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