



In the Court of Judicial Magistrate, 1st Court Raghunathpur, Purulia Present: BASHAR NAWAZ, [J.O Code: WB01449] [On this 13 th day of April, 2026] [G.R. Case No. 435 of 2013] [CIS Registration No. 172 of 2016] CNR No. WBPU060005452016 (Arising out of Kashipur P.S. Case No. 78 of 2013 dated 21.09.2013 under section 379/411 IPC)	
Complainant	STATE OF WEST BENGAL THROUGH O/C Kashipur POLICE STATION
REPRESENTED BY	LD. APP
ACCUSED	1. Sk. Ajib
REPRESENTED BY	R.N.Mishra

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	20.09.2013
Date of FIR	21.09.2013
Date of Charge-sheet	31.08.2014
Charge	18.03.2025
Date of commencement of evidence	10.03.2026
Date on which judgment is reserved	13.04.2026
Date of the Judgment	13.04.2026
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	Sk. Ajib	20.09.2014 (arrested)	20.09.2014	379/411 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	Vishal Chowdhury	Complainant
PW2	Abkit Chowdhury	Relative of complainant
PW3	Manab Chowdhury	Relative of 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
Exhibit P1	Written complaint filed by PW1 Vishal Chowdhury	10.03.2026
Exhibit P1/1	Signature of PW1 Vishal Chowdhury on written complaint	10.03.2026
Exhibit P2/1	Signature of PW1 Vishal Chowdhury on seizure list dated 22.09.2013	10.03.2026

• **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

J U D G M E N T

The prosecution case, in brief, is that on 20.09.2013 the complainant Vishal Chowdhury, a businessman dealing in mobile phones, had ordered 70 pieces of mobile sets from a supplier at Balarampur. The said consignment was transported through a bus and reached Raghunathpur, from where it was entrusted to an auto driver for delivery at Adra.

However, upon delivery on the same day, it was found that the carton was tampered with and out of 70 mobile sets only 24 pieces were delivered, while 46 mobile sets were found missing. Suspecting theft during transit, the complainant lodged a written complaint on 21.09.2013 at Kashipur Police Station, on the basis of which Kashipur P.S. Case No. 78/2013 dated 21.09.2013 under Sections



379/411 IPC was started.

During investigation, the Investigating Officer visited the place of occurrence, examined witnesses, prepared seizure list, and made efforts to recover the stolen articles and apprehend the accused persons. Upon completion of investigation, charge sheet bearing No. 62/14 dated 31.08.2014 was submitted against accused Sk. Ajib and Sk. Rahul under Sections 379/411 IPC, while FIR named accused Dipak Kumar was not charge-sheeted for want of sufficient evidence.

Subsequently, during the course of trial, the accused Sk. Rahul failed to appear before the Court despite issuance of warrant of arrest. Accordingly, proclamation proceedings under Section 82 Cr.P.C were initiated against him. After due compliance of legal formalities, the said accused Sk. Rahul was declared a proclaimed person on 16.02.2026 for absconding and evading execution of warrant of arrest.

Thereafter, the case proceeded against the remaining accused Sk. Ajib. Upon consideration of the case record, FIR and materials collected during investigation, this Court found prima facie case against the accused persons under Sections 379/411 IPC. Accordingly, charge was framed on 23.02.2026 against the accused, who pleaded not guilty and claimed to be tried.

Evidence adduced

Only three witnesses in this case have been examined and cross examined as PW01 and PW3 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 2013 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 379/411 IPC?

Decision with reason

Point number 01 and 02:

As both the points for determination are interrelated, for the sake of convenience and brevity, they are taken up together for joint discussion in this judgment. Learned counsel for the accused persons, during the course of argument, submitted that the prosecution has miserably failed to establish the charges framed against the accused persons and, therefore, they are entitled to an order of acquittal. It was further contended that the witnesses examined on behalf of the prosecution have not stated anything incriminating against the accused persons from which their involvement in the alleged offences can be inferred. Accordingly, it was urged that the accused persons deserve to be acquitted. On the other hand, the Learned A.P.P. opposed such contention but fairly submitted that there is no sufficient material on record from which it can be conclusively held that the prosecution case has been proved beyond reasonable doubt.

In order to arrive at a just and proper adjudication, it is necessary at the outset to examine as to where the burden of proof lies and the extent to which such burden is required to be discharged. It is a settled principle of criminal jurisprudence that every accused person is presumed to be innocent unless proved guilty. The prosecution carries the burden to prove the guilt of the accused by establishing all the essential ingredients of the offences alleged against him. The standard of proof required in a criminal trial is proof beyond reasonable doubt, which is distinct from the standard of preponderance of probabilities applicable in civil cases.

The Hon'ble Apex Court in AIR 1966 SC 01 has observed that if, upon consideration of the entire evidence on record, whether adduced by the prosecution or the defence, a reasonable doubt arises in the mind of the Court regarding any of the essential ingredients of the offence, including the existence of mens rea, the accused is entitled to the benefit of doubt and must be acquitted.

Thus, in view of the settled legal principles governing criminal trials, there remains no ambiguity that the burden of proof rests entirely upon the prosecution and continues throughout the trial. If, upon evaluation of the evidence, a reasonable doubt persists regarding the commission of the offence by the accused, the accused is entitled to the benefit of such doubt. Guided by these principles, this Court is required to scrutinize the evidence available on record to determine whether the prosecution has been able to establish the occurrence of the alleged offences and connect the accused persons with the same.

It is therefore imperative to undertake a careful and detailed analysis of the evidence on record. As already noted, before the guilt of the accused can be established, the prosecution must prove, beyond reasonable doubt, that the accused persons committed the alleged offences with the requisite mens rea, and this burden remains upon the prosecution from the inception till the conclusion of the trial.

PW1 Vishal Chowdhury during his examination-in-chief stated that he filed the case in the year 2013 at Kashipur Police Station. He identified the written complaint and his signature thereon, which were marked as Exhibit P1 and P1/1. He stated that the incident took place on a bus coming from Balarampur to Kashipur and some mobile articles were stolen. He further stated that he does not know who stole the articles and he does not know the accused persons. He also stated that on 22.09.2013 some articles were seized and he signed the seizure list, and his signature



was marked as Exhibit P2/1. During his cross-examination, he stated that he does not know anything about the investigation of the case and does not remember the details of the case.

PW2 Abkit Chowdhury during his examination-in-chief stated that Vishal Chowdhury, his brother, filed the case for mobile theft. He further stated that he does not know the name of the accused persons and does not know anything about the case. During his cross-examination, no questions were put by the defence.

PW3 Manab Chowdhury during his examination-in-chief stated that Vishal Chowdhury, his relative, filed the case for mobile theft. He further stated that he does not know the name of the accused persons and does not know anything about the case. During his cross-examination, no questions were put by the defence.

Upon careful consideration of the entire materials on record, the oral evidence of witnesses and the documents exhibited, this Court proceeds to analyse whether the prosecution has been able to establish the guilt of the accused person beyond reasonable doubt.

At the outset, it is a settled principle of criminal law that the burden of proof lies entirely upon the prosecution and such burden never shifts. The prosecution is required to prove its case beyond reasonable doubt by cogent, reliable and trustworthy evidence. Suspicion, however strong, cannot take the place of proof.

In the present case, the prosecution examined three witnesses namely PW1 (complainant), PW2 and PW3. Among them, PW1 Vishal Chowdhury is the most material witness being the informant and the owner of the alleged stolen property. However, on careful reading of his deposition, it appears that he has not supported the prosecution case in material particulars. Though he proved the written complaint (Exhibit P1 and P1/1) and his signature on seizure list (Exhibit P2/1), he has clearly stated that he does not know who committed the theft and he does not know the accused persons. He has also failed to state any fact connecting the accused persons with the alleged offence. Thus, his evidence does not establish the identity of the accused or their involvement in the commission of the offence.

PW2 and PW3 are merely hearsay witnesses. Both of them have categorically stated that they do not know anything about the case and do not know the accused persons. Their evidence does not advance the prosecution case in any manner. They have not supported the prosecution story and their testimony is of no evidentiary value for proving the guilt of the accused.

Thus, from the evidence of all the prosecution witnesses, it is evident that there is no direct evidence against the accused persons. There is also no circumstantial evidence forming a complete chain pointing towards the guilt of the accused. The essential ingredients of Section 379 IPC, namely dishonest intention and taking of movable property out of possession of another without consent, have not been proved by the prosecution. Similarly, the essential ingredients of Section 411 IPC, namely possession of stolen property with knowledge or reason to believe that it is stolen property, have also not been established.

It is further noteworthy that though seizure has been mentioned and signature of PW1 on seizure list has been marked, the prosecution has failed to prove recovery of stolen articles from the possession of the accused persons. No witness has stated that any stolen property was recovered from the accused. In absence of such recovery, the charge under Section 411 IPC cannot be sustained.

Another important aspect is that one of the charge-sheeted accused namely Sk. Rahul has been declared a proclaimed person under Section 82 Cr.P.C. due to his



abscondence. However, mere absconding of an accused does not by itself prove his guilt. The prosecution is still required to prove its case by reliable evidence against the accused facing trial.

In this context, it is relevant to refer to the judgment of the Hon'ble Supreme Court in *Kali Ram v. State of Himachal Pradesh* (1973) 2 SCC 808, wherein it has been held that if there is any reasonable doubt regarding the guilt of the accused, the benefit of such doubt must be given to the accused. It has also been held that the court must ensure that there is clear, cogent and unimpeachable evidence before recording conviction.

Further, in *Vijay @ Chinee v. State of Madhya Pradesh* (2010) 8 SCC 191, the Hon'ble Supreme Court has observed that when material witnesses do not support the prosecution case, it creates serious doubt about the prosecution version.

In the present case, the complainant himself has not supported the prosecution case regarding identity of the accused and the manner of occurrence. The other witnesses have also not supported the case. There is no corroborative evidence on record. The prosecution has thus failed to establish a complete chain of evidence.

Therefore, in view of the above discussion and appreciation of evidence, this Court is of the considered opinion that the prosecution has failed to prove the charges under Sections 379/411 IPC against the accused beyond reasonable doubt. The evidence on record is insufficient and unreliable to sustain conviction.

Accordingly, the accused person is entitled to the benefit of doubt and deserves to be acquitted.

Hence; it is

ORDERED

that the accused person, namely 1. Sk. Ajib is found to be not guilty of committing the offence under section 379/411 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: 13.04.2026

Judicial Magistrate 1st Court
Raghunathpur, Purulia
WB01449

Typed and corrected by me;

Judicial Magistrate 1st Court
Raghunathpur, Purulia
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