



<p>In the Court of Judicial Magistrate, 1st Court Raghunathpur, Purulia Present: BASHAR NAWAZ, [J.O Code: WB01449] [On this 09th day of March, 2026] [G.R. Case No. 216 of 2024] [CIS Registration No. 526 of 2025] CNR No.WBPU060008072024 (Arising out of Para P.S. Case No. 44 of 2024 dated 30.03.2024 under section 379/411/34 of IPC)</p>	
Complainant	STATE OF WEST BENGAL THROUGH O/C Para POLICE STATION
REPRESENTED BY	LD. APP
ACCUSED	1. Rajesh Rajwar 2. Kiyananda Dey 3. Samser Khan @ Nanka 4. Ashamul Ansary
REPRESENTED BY	RN 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	29.03.2024
Date of FIR	30.03.2024
Date of Charge-sheet	30.04.2024
Charge	04.07.2025
Date of commencement of evidence	08.09.2025
Date on which judgment is reserved	09.03.2026
Date of the Judgment	09.03.2026
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.	Rajesh Rajwar	30.03.2024 (arrested)	09.04.2024	379/411/34 of IPC	Acquitted.	NA	NA
2.	Kiyananda Dey	30.03.2024 (arrested)	09.04.2024	379/411/34 of IPC	Acquitted.	NA	NA



3.	Samsar Khan @ Nanka	30.03.2024 (arrested)	09.04.2024	379/411/34 of IPC	Acquitted.	NA	NA
4.	Ashamul Ansary	30.03.2024 (arrested)	09.04.2024	379/411/34 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	ASI Sisir Kumar Mahato	Police witness and seizure witness
PW2	Mir Kurban	Seizure witness
PW3	Uttam Mondal	Police witness and seizure witness
PW4	Snehasis Mondal	Complainant and seizure witness
PW5	Dipak Gorain	Seizure witness
PW6	Bidyut Acharjee	Seizure witness
PW7	Dhananjay Mudi	Seizure witness

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:**

Sr. No.	Exhibit Number	Description	Date
1	Exhibit P1	Seizure list	08.09.2025
2	Exhibit P1/1	Signature of PW1 on seizure list	08.09.2025
3	Exhibit P1/2	Signature of PW3 on seizure list	08.09.2025
4	Exhibit P1/3	Signature of PW4 on seizure list	30.10.2025
5	Exhibit P2/1	Signature of PW2 on seizure list	08.09.2025
6	Exhibit P2/1	Signature of PW7 on seizure list	30.10.2025
7	Exhibit P3	Written complaint	30.10.2025
8	Exhibit P3/1	Signature of PW4 on written complaint	30.10.2025



9	Exhibit P3/1	Signature of PW5 on seizure document	30.10.2025
10.	Exhibit P3/2	Signature of PW6 on seizure document	30.10.2025

- 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 29.03.2024 at about 04:35 A.M., the police personnel of Anara Out Post under Para Police Station were performing mobile duty near Ranipur Railway Subway. At that time they intercepted one red coloured Mahindra Jito Tempo bearing registration number WB-81-2102 which was allegedly carrying various parts of an old diesel water pump. The police personnel detained the vehicle and the persons present in it as they failed to produce any documents regarding the said articles. Subsequently the vehicle and the articles were taken to the police station and the articles were seized under a seizure list.

During investigation the police interrogated the accused persons and allegedly recovered some tools from a nearby place. After completion of investigation, the Investigating Officer submitted charge sheet No. 41/2024 dated 30.04.2024 under Sections 379/411/34 IPC against the accused persons namely Rajesh Rajwar, Kiyanda Dey and Samser Khan @ Nanka.

Evidence adduced

Six witnesses in this case have been examined and cross examined as PW01 and 06 No other witness has been examined on behalf of the prosecution. It is also axiomatic from the case record that even after taking gusto efforts appearance of all the witnesses could not be secured. It is worthwhile to mention here that this case is pending since the year 2024 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 prosecution evidence was closed 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 379/411/34 of IPC?

Decision with reason

Point number 01 and 02:

As both the above-mentioned points for determination are closely interrelated, they are taken up together for the sake of convenience and brevity and are being discussed jointly in this judgment. Learned counsel appearing for the accused, during the course of arguments, submitted that the prosecution has miserably failed to prove the charges framed against the accused and, therefore, the accused persons are entitled to acquittal. He further contended that none of the witnesses examined by the prosecution have been able to depose to any material facts from which the charges against the accused could be said to have been proved, and as such, the accused persons deserve to be acquitted. Learned A.P.P., however, opposed the said contention and raised serious objections to the prayer made on behalf of the accused. She submitted that there are sufficient materials on record from which the prosecution case can be said to have been proved beyond reasonable doubt.

In order to arrive at a proper and judicious adjudication, the foremost issue that requires consideration is upon whom the burden of proof lies and to what extent such burden is required to be discharged. It is a settled principle of criminal jurisprudence that the accused enjoys a presumption of innocence, and the well-established rule of evidence, having received consistent judicial sanction, is that the prosecution must prove the guilt of the accused by establishing all the essential ingredients of the offence alleged against him. The test for determining what constitutes proof of guilt in a criminal trial has been clearly enunciated by the Hon'ble Apex Court. While in civil cases a fact may be said to be proved by a mere preponderance of probabilities, in criminal cases the prosecution is required to prove the charge beyond reasonable doubt.

In AIR 1966 SC 01, the Hon'ble Supreme Court observed at page 3 as follows: "If upon the evidence adduced in the case, whether by the prosecution or by the accused, a reasonable doubt is created in the mind of the Court as regards one or more of the ingredients of the offence, including the mens rea of the accused, he would be entitled to be acquitted."

Thus, from the aforesaid discussion and the settled principles governing criminal trials as laid down in a catena of decisions of the Hon'ble Courts, there remains no ambiguity with regard to the legal proposition that the general burden



of proof always rests upon the prosecution. If, upon appreciation of the evidence adduced by the prosecution or the defence, a reasonable doubt arises as to whether the accused committed the alleged offence, the accused is entitled to the benefit of such doubt and consequently to an acquittal.

Guided by the aforesaid principles of law, this Court is now required to meticulously scrutinize the evidence available on record in order to ascertain whether the prosecution has been able to prove the acts or occurrences constituting the alleged offences and whether it has successfully established a nexus between the accused persons and the commission of such offences. It therefore becomes necessary to undertake a detailed examination of the evidence on record.

PW1 ASI Sisir Kumar Mahato during his examination-in-chief stated that on 30.03.2024 he was posted at Anara OP. On that day he along with SI Snehasis Mondal and other constables were on round duty. When they reached near Ranipur Railway Subway they saw one red colour Mahindra Tempo bearing registration number WB812102. In the said vehicle there were some old parts of a water pump. The driver failed to provide any details regarding those articles. Thereafter the officer took the vehicle along with the accused persons to Anara OP and prepared the seizure list dated 30.03.2024. He stated that he signed the seizure list which was marked as Exhibit P1/1. He further stated that he does not remember the faces of the accused persons. During his cross-examination he stated that he cannot see the seized articles in the Court and denied the suggestion that he deposed falsely.

PW2 Mir Kurban during his examination-in-chief stated that on 02.04.2024 he was posted at Para Police Station. On that day he signed one seizure list and his signature was marked as Exhibit P2/1. During his cross-examination he stated that he cannot see the seized articles in Court and denied the suggestion that no seizure was made or that he deposed falsely.

PW3 Uttam Mondal during his examination-in-chief stated that on 30.03.2024 he was posted at Anara OP and was on night round duty along with SI Snehasis Mondal. When they reached near Ranipur Subway they saw one red colour tempo bearing registration number WB812102 carrying some old iron parts. As the persons present in the vehicle failed to produce any documents, the officer seized those articles and he signed the seizure list which was marked as Exhibit P1/2. During his cross-examination he stated that the seizure was made at the police station and he signed the seizure list inside the police station. He further stated that he cannot see the seized articles in Court.

PW4 Snehasis Mondal during his examination-in-chief stated that on 30.03.2024 he was posted as In-Charge of Anara OP. On that day at about 4:30 A.M. while performing mobile duty along with ASI Sisir Mahato, Constable Uttam Mondal and NVF Bibek Ardi, they intercepted a Mahindra Tempo carrying certain pump parts. Four persons were present in the vehicle including the driver. They were unable to produce any documents relating to those articles. The vehicle and articles were detained and subsequently seized. The seizure list was marked as Exhibit P1 and his signature was marked as Exhibit P1/3. He further stated that he lodged a written complaint which was marked as Exhibit P3 and his signature was marked as Exhibit P3/1. He identified two accused persons present before the



Court. During cross-examination he stated that the parts were in loose condition and separate from the pump. He admitted that he did not collect any local seizure witness and that he did not submit the command certificate before the Court.

PW5 Dipak Gorain during his examination-in-chief stated that on 03.04.2024 he was posted under Para Police Station and on that day he signed a seizure list as a witness. His signature was marked as Exhibit P3/1. During his cross-examination the defence declined to put any question.

PW6 Bidyut Acharjee during his examination-in-chief stated that on 03.04.2024 he was posted under Para Police Station and he signed a seizure list as a witness. His signature was marked as Exhibit P3/2. During his cross-examination the defence declined to put any question.

PW7 Dhananjay Mudi during his examination-in-chief stated that on 02.04.2024 he was posted under Para Police Station and he signed a seizure list as a witness. His signature was marked as Exhibit P2/1. During his cross-examination he denied the suggestion that he signed the seizure list on the instruction of his superior.

In a criminal trial the burden lies entirely upon the prosecution to prove the guilt of the accused persons beyond all reasonable doubt. The accused persons are presumed to be innocent unless such presumption is rebutted by reliable, cogent and convincing evidence produced by the prosecution. The Hon'ble Supreme Court in *Sharad Birdhichand Sarda vs State of Maharashtra (1984) 4 SCC 116* has held that the prosecution must prove the case beyond reasonable doubt and the benefit of doubt must always go in favour of the accused.

In the present case the prosecution alleges that the accused persons were transporting stolen parts of a diesel water pump and thereby committed offences punishable under Sections 379/411/34 IPC. However, on careful scrutiny of the evidence on record several serious infirmities appear in the prosecution case.

Firstly, none of the prosecution witnesses have proved that the seized pump parts were in fact stolen property. No owner of the alleged stolen property has been examined before the Court. There is absolutely no evidence on record to show from where the said pump parts were stolen or who was the owner of those articles. Without proving that the property was stolen, the essential ingredients of offences under Sections 379 and 411 IPC cannot be established.

Secondly, the evidence regarding seizure is not free from doubt. PW3 has clearly stated in his cross-examination that the seizure list was signed inside the police station. This creates serious doubt regarding the prosecution story that the seizure was made at the spot. Moreover, PW4 admitted in his cross-examination that no local witness was present at the time of seizure. The absence of independent witnesses further weakens the prosecution case.

Thirdly, none of the seized articles have been produced before the Court during the trial. PW1, PW2 and PW3 have all admitted that they cannot see the seized articles in the Court. The non-production of material exhibits creates a serious gap in the chain of evidence and prevents the Court from verifying the prosecution case.

Fourthly, the prosecution has relied mainly on police witnesses and formal witnesses. Their evidence does not conclusively establish that the accused persons had knowledge that the articles were stolen property. The Hon'ble Supreme Court



in Kali Ram vs State of Himachal Pradesh (1973) 2 SCC 808 has held that if two views are possible on the evidence on record, the view favourable to the accused must be adopted.

Similarly, the Hon'ble Supreme Court in Vijayee Singh vs State of U.P. (1990) 3 SCC 190 held that suspicion, however strong, cannot take the place of proof and the prosecution must establish its case through clear and convincing evidence.

Applying the above settled principles of criminal jurisprudence to the present case, it becomes evident that the prosecution has failed to prove the essential ingredients of the alleged offences. The prosecution has also failed to prove beyond reasonable doubt that the accused persons were in conscious possession of stolen property or that the articles were in fact stolen.

Therefore, considering the inconsistencies in the evidence, absence of independent witnesses, non-production of seized articles, and failure to establish that the property was stolen, this Court finds that the prosecution has failed to prove its case beyond reasonable doubt.

Hence; it is

ORDERED

that the accused person, namely 1. Rajesh Rajwar 2. Kiyanda Dey 3. Samser Khan @ Nanka 4. Ashamul Ansary are found to be not guilty of committing the offence under section 379/411/34 of IPC and they are hereby acquitted of the charges framed against them as per section 248 sub-section (1) of the Criminal Procedure Code 1973. They are also discharged from the liability of their 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: 09.03.2026

Judicial Magistrate 1st Court
Raghunathpur, Purulia
WB01449

Typed and corrected by me;

Judicial Magistrate 1st Court
Raghunathpur, Purulia
WB01449