



IN THE COURT OF JUDICIAL MAGISTRATE 2nd COURT, RAGHUNATHPUR, PURULIA Present: Smt. Sanjukta Bhattacharya (JO Code-WB01346) [29-06-2026] GR Case No. 67/2020 (CIS No.: 834/2023) CNR No.: WBPU06001198-2023 TR No.: 129/2023 Presented on : 31-10-2023 Registered on : 31-10-2023 Decided on : 29-06-2026 Duration : 2 years, 7 months, 29 days The allegation u/s- 379,411,413,414, 120 B of Indian Penal Code, 1860 arising out of Neturia PS Case No. 13/20 Dated-15-02-2020	
Complainant	STATE OF WEST BENGAL ASI Tarapada Mete De facto complainant)
REPRESENTED BY	Learned Assistant Public Prosecutor Sri Lalit Majee
ACCUSED , PARENTAGE AND PLACE OF RESIDENCE	Sukhmoy Roy s/o Kuchur Roy, residing at village Ekchala , Gangajalghati PS, District- Bankura.....A-1, and Bapi Bauri, s/o Chinta Bauri,residing at village Ramjibonpur, Chandrakona, Paschim Medinipur , A/P residing at village Ekchala , Gangajalghati PS, District- Bankura.....A-2
REPRESENTED BY	Learned advocates Sri Bipul Hazra

Date of Offence	15-02-2020
Date of FIR	15-02-2020
Date of Charge sheet	24-02-2021
Date of Framing of Charge	04-02-2026
Date of commencement of Evidence	18-03-2026
Date on which Judgement is reserved	03-06-2026
Date of the Judgement	29-06-2026
Date of the Sentencing order, if any	Not applicable



ACCUSED DETAILS

<i>Rank of the Accused</i>	<i>Name of the Accused</i>	<i>Date of arrest</i>	<i>Date of release on Bail</i>	<i>Offences charged with</i>	<i>Whether acquitted or convicted</i>	<i>Sentence imposed</i>	<i>Period of Detention Undergone during Trial for purpose of Section 428 of Cr.P.C.</i>
<i>A-1</i>	<i>Sukhmoy Roy</i>	<i>Surrendered on 10-09-2020</i>	<i>10-09-2020</i>	<i>Sections 379 411 and 414 of Indian Penal Code</i>	<i>Acquitted</i>	<i>Not Applicable</i>	<i>Not Applicable</i>
<i>A-2</i>	<i>Bapi Bauri</i>	<i>Surrendered on 28-06-2021</i>	<i>28-06-2021</i>	<i>Sections 379 411 and 414 of Indian Penal Code</i>	<i>Acquitted</i>	<i>Not Applicable</i>	<i>Not Applicable</i>

LIST OF WITNESSES

A. Prosecution witness, if any:

<i>Rank</i>	<i>Name</i>	<i>NATURE OF EVIDENCE</i>
<i>PW- 1</i>	<i>ASI Tarapada Mete</i>	<i>Police witness/ Complainant</i>
<i>PW- 2</i>	<i>C/1140 Doyamoy Mahato</i>	<i>Police witness/seizure witness</i>
<i>PW-3</i>	<i>C/584/Madhab Chandra Majee</i>	<i>Police witness</i>

B. Defence witness, if any:

<i>RANK</i>	<i>NAME</i>	<i>NATURE OF THE EVIDENCE</i>
<i>Not Applicable</i>	<i>Not Applicable</i>	<i>Not Applicable</i>

C. Court witnesses, if any:

<i>RANK</i>	<i>NAME</i>	<i>NATURE OF THE EVIDENCE</i>
<i>Not Applicable</i>	<i>Not Applicable</i>	<i>Not Applicable</i>



A. LIST OF PROSECUTION EXHIBITS :

Sr. No.	Exhibit Number	Description
1.	Exhibit P-1	Signature of PW-1 over seizure list dated 15-02-2020
2.	Exhibit P-2	Signature of PW-1 over typed FIR Complaint
3.	Exhibit P-3	Signature of PW-2 over seizure list dated 15-02-2020

B. Defence:

Sr. No.	Exhibit Number	Description
Not Applicable	Not Applicable	Not Applicable

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
Not Applicable	Not Applicable	Not Applicable

D. Material objects:

Sr. No.	Material object number	Description
Not Applicable	Not Applicable	Not Applicable

JUDGEMENT

1. PROSECUTION CASE:

1.1 The prosecution case arises from a complaint lodged suo motu by the police/ de facto complainant man (herein after referred to as D/C) ASI Tarapada Mete of Neturia PS, District- Purulia on 15-02-2020 at 19.05 hrs to the effect that, on the D/C along with other force members were attending NAKA checking duty at Haridih more and intercepted two vehicles bearing registration Nos. 67A/ 1080 and WB 11A/8736, which were coming from Raghunathpur side. That upon seeing the police personnels, the drivers fled away and the complainant police personnel recovered 05 MT (approx) coal, from vehicle bearing No. WB67A/1080 and further 04 MT (approx) coal from 407 vehicle bearing No. WB6 11A/8736 . Both the said loaded vehicles were seized. Hence, this case.

1.2 Over the FIR complaint one specific case being Neturia PS Case No. 13/2020 dated 15-02-2020 u/s-379,411,413,414,120B of Indian Penal Code was registered against the accused as well another accused namely one Shahin Sk. Be it noted as the physical presence of accused Shahin Sk, could not be secured despite issuance of long pending warrant, he was “filed for



present” in this case.

2. INVESTIGATION AND FILING OF CHARGE-SHEET:

2.1. After proper investigation, the present both accused voluntarily surrendered on 10-09-2023 and 28-06-2021 respectively and they were released on bail on self same dates.

2.2. Perusal of the order sheets disclose that, police submitted charge Sheet no. 11/2021 dated 24-02-2021 against the present accused u/s-379,411,414/120B of Indian Penal Code .

2.4. The case was taken cognizance by Learned Additional Chief Judicial Magistrate, Raghunathpur as on 26-02-2021 and the record was transferred to this Court for disposal.

3. APPEARANCE AND FRAMING OF CHARGE:

3.1. On perusal of the materials on record it appears that, after the case record been transferred to this Court, the accused persons were both examined under sections-240 of Code of Criminal Procedure. The substance of accusation was read over and explained to accused of which they pleaded “not guilty” and claimed to be tried. Such being the case, the present accused were both charged for commission of offences punishable u/s-379,411,414 /120B of Indian Penal Code.

4. COMMENCEMENT OF TRIAL: AND EXAMINATION OF ACCUSED U/S 313 OF CODE OF CRIMINAL PROCEDURE CODE :

4.1. After consideration of charge, the trial commenced by taking evidence of only three prosecution witnesses. CSW-1/ASI Tarapada Mete , CSW-2/1140/Dayamoy Mahato aand C/584/Madhab Chandra Majee respectively were examined as PW-1 , PW-2 and PW-23 respectively and discharged. Thereafter,completion of evidence, the evidence on behalf of the State stand closed.

4.2 Owing to lack of incriminating materials on record, examination of accused u/s 313 of Code of Criminal Procedure stands dispensed herewith.

5. POINTS FOR DETERMINATION:

1. Whether the accused persons have committed offences u/s-379,411,414/120B of Indian Penal Code ?

2. Whether the prosecution has proved the guilt of the accused persons beyond reasonable doubt?



6. DECISION WITH REASONS:

6.1 Both the points are taken up conjointly for discussion. The cause of action in this case stemmed from an incident of coal theft, as the prosecution case goes, the same was noticed by the complainant police personnel accompanied by other force members in the course of conducting NAKA Checking duty at Haridih More .At the very outset, it is to be borne in mind, be it the case of the prosecution or the defence, sufficient materials in the form of direct evidence along with corroborating evidences should exist, thereby forming should be a continuous link in the chain of circumstantial evidences, so that the Court may arrive at a just and proper conclusion in a case. However, it cannot be overlooked that, the solemn responsibility first and foremost lies on the prosecution to prove its case on its legs and it is only when the prosecution has been able to successfully establish its case, then only the burden shifts on the accused to explain its stance and present its defence.

6.2 In the present case, on order to establish the case , the prosecution examined the D/C police man as PW-1 , who in his official capacity adduced the evidence and narrated the fact about seeing (02) two vehicles being 407 vehicles coming from Raghunathpur loaded with coal and after seeing us , both the vehicles stopped. As per the version of the witness, it was a bit dark at the relevant point of time and the drivers of the vehicles fled away. PW-1 further deposed that, he recovered 04 (four) MT from vehicle bearing NO. WB11A8734 and 05(five) MT coal from vehicle bearing NO. WB67A 1080 and seized both the loaded vehicles with the assistance of constables. The signature of the witness over the seizure list dated 15-02-2020 was admitted into evidence. PW-1 further more stated that, he then returned back to PS along with the seized vehicles and lodged one complaint before Neturia PS. The immediate next witness/PW-2 happens to be one of the seizure witnesses and reiterated the same fact about seizure of the loaded 407 at Haridih more by his superior. The last witness happens to be the constable who was on centry duty inside Neturia PS and on the relevant date (11-07-2020) , his superior SI Sujoy Kundu seized one driving license . No other witness was examined by the prosecution to corroborate the case in material particulars.

6.3 The first section against which, accused is charged is Section 379 of Indian Penal Code is further required to be proved to the extent that, the movable property was taken away or moved out of that person Secondly, the most important criteria that requires to be established is the requisite mens rea to commit the alleged offence by the accused. Intention to take this dishonestly must be proved.

6.4 In the very outset, as the case unfolds primarily four following questions comes up – **1) identity of stolen articles and the resultant actual loss sustained. (2) identification of the accused and the recovery of the stolen articles. (3)Whether the recovered articles belong to the Central Government (as coal dust is the stolen property in this case) and lastly, (4)Whether the accused in this case was the actual thief or they were merely retainers of stolen properties.**The other section 411 of Indian Penal Code, against which the present accused is charged, provides that



whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Even, **Section 414 of Indian Penal Code**, enunciates Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. It is pertinent to mention Apex Court in **Trimbak vs. State of Madhya Pradesh, reported in AIR 1954 SC 39**, has propounded ingredients of offence, under Section 411 of Penal Code i.e., ingredients, which prosecution has to establish: (1) that the stolen property was in possession of the accused, (2) that some person other than accused had possession of the property before the accused got possession of it and (3) that the accused had knowledge that the property was stolen property.

6.5 Scanning the case record closely, it comes up available evidence is silent regarding alleged recovery of stolen articles from the exclusive possession of the accused and hence, nothing suffices to pinpoint the criminal liability. In the present case, no alibi was produced in the course of trial. Even, no specific mark of identification of alleged stolen articles was mentioned in the FIR. Given that circumstances, if the present accused was in actual possession of the stolen articles/ alleged coal then, it is expected in the fitness of things they would dispose those articles as early as possible more so when the nature of articles are such that, he could pass hands quickly. However, the prosecution must prove the theft and the recovery of stolen property beyond a reasonable doubt and there is another rider to achieve the complete chain of circumstances to establish the guilt. Most importantly, the evidence is silent regarding specific quantity of coal allegedly seized and even nothing is forthcoming whether any official of Central Government/ actual custodian of coal had reported the matter anywhere.

6.6 Further, it cannot be overlooked that, not a single available prosecution witness mention the involvement of any present accused towards alleged commission of the act and went on to further narrate their role towards the alleged commission as either receiver or thief. Alleged place of occurrence remain unidentified in this case and similarly, in absence of any cogent oral or documentary evidence, the intention of the accused to commit the offence, remain suspicious. Hence, After perusal the deposition of prosecution witnesses along with available documentary evidence and considering the submission of Learned Counsels representing the accused and other materials on record, it appears to me that, ingredients of the offence punishable under sections 379, 411, 414, 120B of Indian Penal Code are not thus, established by any credible evidence. In these circumstances, this Court has no other way but to hold both the present accused persons innocent and accordingly acquit them from the charge of this case.

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Hence, it is

ORDERED

that the accused persons namely, (A-1) **Sukhmoy Roy** and (A-2) **Bapi Bauri** respectively are found “**not guilty**” of having committed an offence punishable only under sections 379,411,414, 120B of Indian Penal Code and are both acquitted of the said offences as per provisions of Section 248(1) of Criminal Procedure Code. Sureties are hereby discharged from respective bail bonds.

The complainant police personnel may prefer as per Section-372 of Cr.P.C. and if necessary, avail free legal assistance through District Legal Service Authority, Raghunathpur, Purulia

Copy of this judgment be intimated to Sub-Divisional District Magistrate, Raghunathpur, Purulia as well to SDLSA, Raghunathpur, Purulia

Seized documents, if any, be disposed of after the statutory period of appeal.

Thus, the case is disposed off.

Note in register.

Let a copy of this judgment be uploaded in CIS at once.

Dictated and Corrected by me,

Sd/-

**Judicial Magistrate, 2nd Court,
Raghunathpur, Purulia**

Dictated and Corrected by me,

Sd/-

**Judicial Magistrate, 2nd Court,
Raghunathpur, Purulia**