

The Court of JM 1st Class, Ramgarh
Present: Mrs. Smriti Tripathi
Judicial Magistrate
14th December, 2022
District: Ramgarh
G.R. Case No. 339/2009
CNR No. JHRG030000882009
(Mandu (Kujju) PS Case No. 38/2009)

Informant	State (Through Ashok Prasad)
Represented By	Smt. Manju Kachchap, Ld. A.P.P.
Accused	1. Najim Khan @ Naushad s/o Ajim Khan, male, aged about 37 yrs, r/o village Mandaikala, PS Sadar, District Hazaribag [A1] 2. Mansur Alam s/o late Ajhar Miyan, male, aged about 47 yrs, r/o Pathalgadha, PS Itkhori, District Chatra [A2]
Represented By	Sh. Mahendra Pd. Singh

Date(s) of Offence	01.02.2009
Date of FIR	01.02.2009
Date of Chargesheet	30.11.2011
Date of framing of charge	14.08.2018
Date of Commencement of evidence	15.09.2018
Date on which Judgment is reserved	14.12.2022
Date of Judgment	14.12.2022
Date of Sentencing Order, if any	N/A

Rank of the Accused	Name of the Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, CrPC.
A1	Najim Khan @ Naushad	03.02.09	04.03.09	s. 392, IPC	Acquitted	None	N/A
A2	Mansur Alam	03.02.09	05.02.09	s. 392, IPC	Acquitted	None	N/A

J U D G M E N T

1. The afore-named accused persons (Hereinafter referred to as "**A1 & A2**") are facing trial for charges framed u/s. 392 of The Indian Penal Code, 1860 (Hereinafter referred to as the "**IPC**").

2. The **compendious case of the prosecution**, as arising from the *Fardbeyan* of Ashok Prasad (hereinafter referred to as the "**informant**"), recorded by SI C. D'Cruz of Kujju OP is that the informant went to Maruti Show Room at Ranchi Road to purchase a new Car on exchange offer for his old Maruti Car bearing registration no. BR14E-9111 for which, the showroom was ready to give him ₹50,000/- In the meantime, A2 came in contact of the younger brother of the informant and told him that the said old car will be purchased for ₹80,000/- by one Sajjad and one Guddu. For finalizing the deal, the informant reached to the showroom to meet A2 and others. The informant further states that he was going to purchase a new car from the ₹80,000/- he was going to get for his old car and some of the rest amount he was going to get financed. As he was waiting near the show-room, at about 2:30PM, one Indica Car bearing registration no. JH05H-1044 came there and stopped, and from that car two persons step down and asked the informant whether this was the car he wanted to sell. When the informant asked their names, they said that A2 sent them. All of a sudden, one of the persons caught the collar of the informant and the other sat in the informant's car and kicked him out on gun-point and forcibly took the informant's car from the place of occurrence towards Ranchi Road. The informant got scared and raised alarm and informed the Maruti Show Room staff who had seen the said miscreants in informant's car. He further states that he had Thus, this case.

3. After investigation, the Investigating Officer submitted **charge-sheet** bearing no. 155/2011 dated 30.11.2011 against A1 and A2 for the offence u/s. 392 of IPC, and no case was submitted to be found out against Sajjad Miyan and Guddu. Thereafter, **cognizance** of the offence u/s. 392, IPC was taken by the Court of Ld. Ld. Chief Judicial Magistrate, Hazaribagh on 21.11.2012.

4. On 14.08.2018, **charges** were framed u/s. 392 of IPC against A1 and A2 and the content of the charge was read over to them in simple Hindi to which they pleaded not guilty and claimed to be tried, and the record was set for prosecution evidence.

5. After closing the **prosecution evidence**, on 14.12.2022 material available against A1 and A2 was put to them and the respective statements of A1 and A2 were recorded u/s. 313 of CrPC in which they denied the material available against them and claimed to be innocent.

6. Thereafter, the defence was provided with an opportunity to adduce evidence on its behalf, if any but the Id. counsel for the defence submitted that he does not want to

adduce any evidence. Upon his prayer, the **defence evidence** was closed and the matter was posted for arguments.

7. The prosecution did not argue much due to lack of evidence.

8. The defence on the other hand argued that a false case has been lodged and no offence as alleged is made out from the deposition of the witnesses. It was also submitted that the prosecution has failed to prove the guilt of A1 & A2 beyond reasonable doubt.

9. Now, the Court will consider as to whether the prosecution has been able to substantiate the charges levelled against A1 and A2 beyond reasonable doubt or not. On the bedrock of the charges framed, the prosecution case will be examined on the following touchstone for the sake of a more structured analysis:

9.1 Whether Robbery by theft or by extortion was committed of the informant's Maruti Car bearing registration no. BR14E-9111 by A1 and A2?

10. Before the court dwells to consider the point of determination as stated above, it would be apt to enlist the evidences brought in this case by all sides for the sake of brevity and proper reference, which are enlisted below:

List of Prosecution/Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence
PW1	Hemlal Mahto	Hostile Witness
PW2	Subhash Agarwal	Hostile Witness
PW3	Bigeshwar Mahtha	Hostile Witness
PW4	Ashok Prasad	Interested Witness (Informant)

B. Defence:

Rank	Name	Nature of Evidence
--- nil ---		

List of Prosecution/Defence/Material Exhibits

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Ext. 1	Fardbeyan of the informant

B. Defence:

Sr. No.	Exhibit Number	Description
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--- nil ---

B. Material Objects:

Sr. No.	Exhibit Number	Description
--- nil ---		

FINDINGS

11. PW01-PW03 all denied any knowledge about the alleged incident and turned hostile. PW04, being the informant supported the prosecution case including the date, time and pace of the alleged incident and deposed that it was A2 who told him that Shahjad Alam and Guddu were sitting inside Indica Car and its driver was A1. He further claimed that his car was looted at the behest of conspiracy woven by A2, in a premeditated manner, at gunpoint. He further deposed that including the amount of ₹80,000/-, kept inside his car, and the agreed value of the car itself, he has suffered a total loss of ₹1,60,000/- which was to be paid to the Showroom for finance. Further that, he received the information upon which he found that his car was abandoned near KB Gate, Kujju. Police took his statement. He claimed to identify the accused Mansur Alam but he could not identify other miscreants.

12. In his cross-examination, PW04 deposed that he reached the concerned PS half an hour after the alleged incident. Further that, His brother had brought A2 to their home where he met him. Further that the police did not take the statement of his brother. He also deposed that he has resolved the matter outside court and has filed compromise petition duly signed by him. However, upon perusal it transpires that the same has not been exhibited by either side. Finally, it has been deposed that no staff of Maruti Showroom went to the PS and that there is no documentary evidence of theft of money.

13. Although the informant has supported his case, he is in the category of an interested witness. All the other presumably independent witnesses have turned hostile. Despite several chances and processes, the Investigating Officer did not turn up for his examination. As far as the documentary evidence is concerned, only the Fardbeyan of the informant has been filed by the prosecution. In such a case, it appears to this court that the prosecution has failed to shift the burden of proof upon the defense as it has failed to establish the alleged incident or A1 and A2's involvement in it.

14. Having gone through the material brought in this case, this court is of the considered opinion that the prosecution case is shorn of a single piece of evidence which would suggest that A1 and A2 committed robbery of informant's car. Thus, this court is of the considered opinion that the prosecution has failed to substantiate the charges u/s. 392 of

IPC. Hence, A1 and A2 are hereby **acquitted** in this case. A1, A2 as well as their respective bailors stand discharged from the liabilities of their respective bail bonds.

Pronounced by me in open court.

(Dictated and corrected)

Sd/-

Sd/-

(Smriti Tripathi)

JO Code: JH02021

JM 1st Class, Ramgarh

Ramgarh, dated the 14th December, 2022

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