
(2025) 12 DEL CK 0010

Delhi HC

Case No: Criminal Appeal No. 588 Of 2017

State

APPELLANT

Vs

Dhanraj @ Manish & Anr

RESPONDENT

Date of Decision: Dec. 5, 2025

Acts Referred:

- Code of Criminal Procedure Act, 1973- Section 378, 428
- Indian Penal Code, 1860- Section 34, 392, 397, 411, 452

Hon'ble Judges: Manoj Kumar Ohri, J

Bench: Single Bench

Advocate: Shubhi Gupta, Vijay Shanakar Tiwari

Final Decision: Dismissed

Judgement

Manoj Kumar Ohri, J

1. The present appeal has been preferred by the appellant/State under Section 378 Cr.P.C. assailing the judgment dated 07.11.2014 passed by the learned ASJ-07, Central District, Tis Hazari Courts, in the case arising out of FIR No. 23/2012 registered at P.S. Pahar Ganj, to the extent that the respondents herein were acquitted against the charge under Sections 397/34 IPC. Notably, the leave to appeal was granted on 23.05.2017.

Vide the impugned judgment, both the respondents were convicted under Sections 392/452/34 IPC, with respondent no. 1/Dhanraj @ Manish additionally being convicted under Section 411 IPC. The consequent order on sentence dated 15.11.2014 sentenced both the respondents to undergo RI for 2 years and 6 months alongwith paying a fine of Rs.2,000/- each, in default whereof they would each undergo SI for 1 month, for the offence under Sections 392/34 IPC. They were further sentenced to undergo RI for 2 years and 6 months alongwith paying a fine of Rs.2,000/- each, in default whereof they would each undergo SI for 15 days, for the offence punishable under Sections 452/34 IPC. Respondent no. 1/Dhanraj @ Manish was further sentenced to undergo SI for 1 year along with fine of Rs.1,000/-, in default whereof he would undergo SI for 15 days, for the offence punishable under Section 411 IPC. The sentences of the respective respondents were directed to run concurrently and the benefit under Section 428 Cr.P.C. was granted to them.

Vide subsequent order dated 29.11.2014 passed by the learned ASJ concerned, the respondents were released on probation of good conduct for a period of one year.

2. The case of the prosecution, in brief, as noted by the Trial Court, is as follows:-

"Prosecution's case is that on 03/02/2012 at about 06:00 p.m. both the accused persons on the pretext that they were from bank entered the house of the complainant. Accused persons under threat of knife picked up the complainant's husband's purse and fled. Complainant raised alarm, thereby public persons and chowkidar of the area gathered and apprehended the accused persons. Police was called on 100. Police arrived on the spot and accused persons were arrested on the spot. On search the robbed purse alongwith knife and one cello tape was recovered from the accused persons. Before the Police had arrived, accused persons had been given beatings by the public persons. Accused were taken to hospital for MLC. After completion of investigation charge sheet case was filed."

3. The prosecution examined 12 witnesses in support of its case, the key among them being PW-3/Sharda Sharma, the complainant; PW-4/Pardeep Kumar, the colony security guard who apprehended the respondents herein along with some other members of the colony; and PW-5, a member of the colony.

The husband of the complainant (PW-7) was not present at home at the time of the incident and simply identified his purse upon it being produced in Court. PW-9, the second chowkidar (guard) deputed in the colony at the time of the incident stated that he did not know anything about the case. PW-6, the president of the colony at the time, confirmed that PW-4 and PW-9 were deputed as security guards in the colony at the time of the incident. The remaining witnesses, including the first I.O., ASI Rajmal Singh (PW-11); the Head Constable who assisted him with the present case, HC Raj Kumar (PW-10); and the second I.O., ASI Hira Lal (PW-1), were police officials who deposed as to various aspects of the investigation.

4. The complainant/PW-3 deposed that she was present at her house on 03.02.2012 at 6:00 PM when two boys, stating that they had come from the bank, entered her house and asked for papers relating to her husband's credit card. Her husband's purse was lying on the fridge when she went to her room to bring the concerned papers, and when she asked the boys what they were doing with the purse, "one of them picked up the knife". The witness raised an alarm upon the same and the boys attempted to flee. However, public persons had gathered at the spot and they apprehended the two boys. The witness stated that due to lapse of time, she could not identify the said boys. Upon the seized knife (Ex. P-1) being produced in Court, she stated that the knife used by the accused persons at the time of commission of the offence was similar. She identified her husband's purse as Ex. P-2, and cello tape as Ex. P-3.

In her cross-examination, she admitted that she could not identify the boys apprehended by public persons on the day of the incident, that they were never brought before her for any identification, and that no TIP was conducted. She denied the suggestion that the respondents had been falsely implicated in the present case by the police after lifting them from their respective houses.

5. PW-4, the colony security guard on duty at the time of the incident, deposed that during patrolling, at about 6:00 PM, he heard a lady crying "chor chor", and observed that some public persons and a few guards were also there. The witness stated that he, along with some members of the colony, apprehended two persons. Someone informed the police at 100 number and the victim, Sharda Sharma, reached and identified the accused persons. He stated that one black-coloured purse was recovered from the possession of one of the two boys, which the complainant identified as the concerned purse. He, too, stated that he could not identify the accused persons due to lapse of time. However, he identified the purse (Ex. P-2).

6. PW-5, a resident of the colony, deposed along the same lines as PW-4. He, too, identified the recovered purse and stated that he was unable to identify the respondents due to lapse of time.

7. The State has preferred the present appeal assailing the acquittal of the respondents under Sections 397/34 IPC, and accordingly, the validity of the said acquittal is the only question before this Court in the present case.

8. The Trial Court, upon analysing the testimony of the complainant/PW-3, noted material omissions therein which went to the root of the charge under Section 397 IPC. The Trial Court noted that the complainant, in her initial statement to the police (Ex. PW-1/A) had specifically stated that after the accused persons picked up her husband's purse, she asked them to stop but one of the accused took out a knife from the bag, upon seeing which she got terrified and the accused persons left. She had also stated that it was

thereafter that she raised an alarm. The accused who had used the knife was respondent no. 1/Dhanraj. However, while deposing before the Court as PW-3, the complainant omitted to state which of the accused had taken out the knife and the manner in which he had done so.

9. Most importantly, neither the complainant nor any of the two independent witnesses identified the respondents in trial.

10. Upon a perusal of the record, this Court is of the considered view that the Trial Court's conclusion warrants no interference. An appellate Court, while dealing with an appeal against acquittal, must be slow to interfere unless the findings of the Trial Court are shown to be perverse or wholly contrary to the evidence on record.

11. In these circumstances and keeping in view the well-settled principle of double presumption of innocence which operates in favour of the accused after acquittal 'Ravi Sharma Vs. State (NCT of Delhi), (2022) 8 SCC 536; and Anwar Ali v. State of H.P., (2020) 10', the acquittal of the respondents under Sections 397/34 IPC is upheld and the present appeal is dismissed.

12. A copy of this judgment be communicated to the concerned Trial Court.