

**THE COURT OF SH. KAPIL KUMAR
METROPOLITAN MAGISTRATE-05, CENTRAL,
TIS HAZARI COURTS, DELHI**

CNR No. DL CT-02-001578-2013

CIS No. 292265/16

FIR No. 223/12

PS. Nabi Karim

State Vs Shibbu

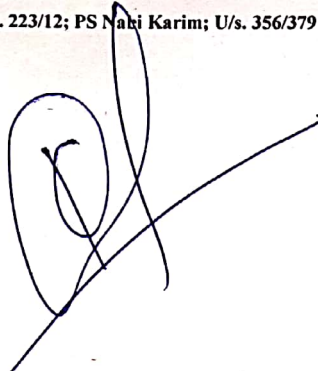
U/s. 356/379 IPC

**JUDGMENT
(Through VC)**

- 1) The date of commission of offence : 09.10.2012
- 2) The name of the complainant : Manjar Alam
- 3) The name & parentage of accused : Shibbu
S/o Late Moolchand
- 4) Offence complained of : 356/379 IPC
- 5) The plea of accused : Pleaded not guilty
- 6) Final order : Convicted
- 7) The date of such order : 22.06.2020

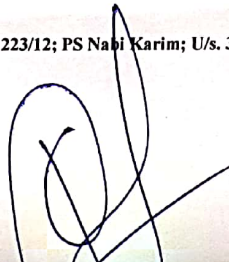
Date of Institution : 18.12.2013

Judgment announced on : 22.06.2020



THE BRIEF REASONS FOR THE JUDGMENT:

- 1) The case of prosecution against the accused is that on 09.10.2012 at about 9:30 AM opposite to Hotel Akshay Delux, Multani Dhandra, Paharganj, Delhi within the jurisdiction of PS Nabi Karim he used criminal force upon the complainant Manjar Alam while snatching his wallet and committed theft of that wallet.
- 2) After completion of investigation, charge sheet was filed against the accused. In compliance of Sec. 207 Cr.PC, documents supplied to the accused. Arguments on point of charge were heard. Vide order dated 18.07.2019, a charge u/s. 356/379 IPC was framed upon the accused, to which he pleaded not guilty and claimed trial.
- 3) In support of its case, prosecution has examined nine witnesses. After conclusion of prosecution evidence statement of accused was recorded U/s 313 Cr.PC(as per section 281(1) Cr.PC) in which accused denied all the allegations and opted not to lead DE.
- 4) I have heard the arguments of Ld. APP for State and Ld Counsel for accused. I have also perused the record carefully.
- 5) It is the cardinal principle of criminal justice delivery system that the prosecution has to prove the guilt of the accused beyond reasonable doubts. No matter how weak the defence of accused is but the golden rule of the criminal jurisprudence is that the case of prosecution has to stand on its own legs.
- 6) The complainant of the present case Manjar Alam was examined as PW1 by the prosecution. PW1 deposed that on 09.10.2012 he was working in the capacity of manager of Hotel Akshay Delux and was taking out something from his wallet while standing outside the Hotel. He deposed that

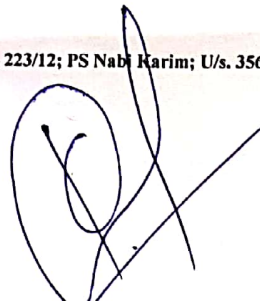


the accused came running from behind and snatched his purse. He correctly identified the accused. PW1 further deposed that he started shouting and ran behind the accused along with his colleagues Shabir Ahmed. and Vivek Singh. He deposed that accused was apprehended near Bikanerwala and a call at 100 number was made. He deposed that his statement was recorded by the police and the site plan was prepared. During his testimony MHC(M) produced the case property i.e wallet. The same was identified by the witness.

7) Ld Defence Counsel cross-examined the complainant but nothing came in the cross-examination helpful for the case of the accused. Nothing came on record as to any motive for the complainant to falsely implicate the accused. The identity of the accused being offender proved on record by virtue of specific identification of the accused by the complainant. The complainant/PW1 sustained the test of the cross-examination on this aspect. I found no reason to disbelieve the testimony of the complainant.

8) The testimony of complainant is corroborated by the testimony of PW2 Vivek Singh and PW3 Shabir Ahmed. Both of them were the colleagues of the complainant. The accused was apprehended in their presence. They also identified the accused in the court. They also correctly identified the case property. PW2 and PW3 were cross-examined but they also sustained the test of the cross-examination as far as the identification of accused and the case property is concerned. All the three public witnesses duly supported the case of the prosecution on all aspects.

9) When the testimony of witnesses to the investigation specifically the testimony of PW6 Ct Joginder and of the investigating officer PW9 SI Anil Yadav be read in the light of the testimony of public witnesses, the

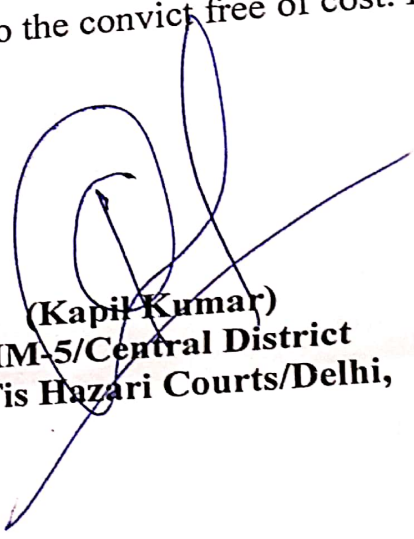


documents prepared during the investigation gain sanctity. The seizure memo of the wallet along with the documents as to the apprehension of accused gain weight as to the credibility. These documents are worthy of credit.

10) In view of the above-discussion it is proved on record that on 09.10.2012 at about 9:30 AM the accused Shibbu snatched the wallet of the complainant while the complainant was standing outside Hotel Akshay Delux and ran away with that wallet. It is also proved that the accused was apprehended at the spot and the stolen wallet was recovered from his possession. All the ingredients as to the offences U/s 356/379 IPC stands proved against the accused and he is convicted accordingly.

Copy of the judgment be supplied to the convict free of cost. Be heard on point of sentence.

Announced through VC
on 22.06.2020


(Kapi Kumar)
MM-5/Central District
Tis Hazari Courts/Delhi,

CNR No. DL CT-02-001578-2013
CIS No. 292265/16
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PS. Nabi Karim
State Vs Shibbu
U/s. 356/379 IPC

22.06.2020

Present: Ld APP for the State.
Accused is present with counsel Sh P.K Garg.

Vide separate judgment of even date, accused Shibbu is convicted for the offences under section 356/379 IPC. Copy of the judgment supplied to the convict free of cost.

Ld Counsel presses for advancing arguments on point of sentence today only. Request considered. Ld APP for the State has no objection to the same.

Arguments on the point of sentence heard. Ld. APP for the state submits that a substantive punishment be awarded to convict so that a deterrent message be sent to the society.

Ld Counsel for convict prays for a lenient view by submitting that the convict is too poor. It is submitted that convict is sole bread earner of his family.

Records perused.

The penology is largely based on two cardinal principle i.e. Deterrent and reformative theories. Convict has shown a genuine desire to repent, therefore, must be granted a fair opportunity for reformation so that he can be a useful citizen of the country. Simultaneously, the convict must be awarded such a sentence, which discourages the other like minded people of the society from entering the world of crime. However, a balance is required to be maintained between the theories, while sentencing the convict. No single theory whether deterrent, preventive, retributive or reformative can help in eliminating crimes and criminals from society. It is



only through an effective combination of two or more of these theories that an ideal penal programme can be drawn to combat crimes. It is also essential to understand crime as a social and individual phenomenon and the need to prevent its commission or repetition by adapting an attitude conducive to the re-socialization and reformation of the criminal. The criminal reformation serves a great social purpose and society itself becomes the greatest beneficiaries of this reformation by being freed from his depredations. If the society cannot reform an offenders, it is punishment for the society. Convict remained in JC for around 1 month 2 days.

Convict is poor person and sole bread earner of his family. Convict is sentenced to imprisonment already undergone and further sentenced to pay a fine of Rs 200/- qua the offence U/s 356 IPC, in default of payment of fine simple imprisonment for 7 days and further sentenced to pay a fine of Rs 300/- qua the offence U/s 379 IPC, in default of payment of fine simple imprisonment for 7 days. Fine paid by convict. Receipt issued.

Section 437A Cr.PC complied with.

File be consigned to Record Room after due compliance.

(KAPILKUMAR)
MM-05/Central:
Delhi/22.06.2020