



2025:DHC:9741



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Pronounced on: 07th November, 2025***

+ **CRL.A.1148/2025**

THE STATE GOVT OF NCT OF DELHIAppellant

Through: Mr. Utkarsh, APP for the State with
SI Chetan, P.S.: Paschim Vihar, West.

versus

1. **DAMANDEEP CHAWLA**
S/o Sh. Kamal Kishore Chawla,
R/o H.No. T-1901, Jain Colony Part-1,
Uttam Nagar, New DelhiRespondent No.1
2. **GATUAM MEHRA @ KAKE**
S/o Late Sh. Raj Kumar,
R/o H.No. T-137, Jain Colony, Part-I,
Uttam Nagar, New Delhi.Respondent No.2
3. **PUNIT SAHNI**
S/o Late Sh. Baldev Sahni,
R/o B-5C, Raghubir Nagar,
New DelhiRespondent No.3
4. **MOHIT KUMAR SINGAL**
S/o Sh. Surender Singal,
R/o T-20, Gali No.03, Binda Pur,
Matiyala Road, Uttam Nagar, Delhi.Respondent No.4
5. **PRADEEP @ RINKU**
S/o Sh. Ravinder Kumar @ Bittu,
R/o GaonBachiPind, P.S. Lopoke,
Distt. Amritsar, Punjab.Respondent No. 5
Through: Mr. Arjun Rekhi, Advocate.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

CRL.A. 1148/2025

Page 1 of 23



J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Criminal Appeal under Section 378 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) has been filed on behalf of the **Petitioner/State** against Judgment dated 03.07.2017 whereby the learned ASJ, has **acquitted** the Respondents for the offence under Sections 392/394/395/ 412/34/120B Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) in FIR No.0062/2013, P.S. Mianwali Nagar.

2. The **brief facts of the Prosecution case** are that on 14.03.2013, the Complainant/Rakesh Bansal gave a statement to the Police that he was in the business of Steel wire trading and has office at A-125, *Ekta Enclave, Peeragarhi, Delhi*. On 14.03.2013 at around 12:00 PM, on reaching his office from his residence, he parked his car in service lane of Rohtak Road and started walking towards his office. As he took two or three steps, one of the two boys, who were already standing nearby, tried to snatch his bag. When he resisted, the other boy started having a scuffle with him and gave him a blow on his nose. He tried to resist, but they both were successful in snatching his bag and running away. He also chased them, but they got into a White colour Accent car bearing No.DL-4C-AQ-2202, in which two other boys were already seated and they all went towards Nangloi. The Complainant further stated that his bag contained about Rs.7,00,000/- in cash, two account registers, two pen drives, one memory card, four ATM cards (one of SBI, one of Kotak Mahindra Bank and two of ICICI Bank). He also gave description of the boys, as around 25-30 years of age, wheatish complexion of six feet height, having sturdy build.



3. On his Complaint, ASI Satyabir Singh, I.O. prepared the *Rukka* and got the FIR registered. During investigations, Complainant revealed that he suspected his ex-employee *Mohit Singal*, Respondent No.4, who along with one *Rahul*, on an earlier occasion also robbed him of a sum of Rs.11,00,000/- for which *FIR No.0282/2011 under Sections 392/394/34 IPC* Police Station Saraswati Vihar, had been registered in which he is on Bail.
4. The I.O. made an enquiry from *Mohit Singal*, who revealed that he was working with one *Damandeep* and his friends *Gautam @ Kaka* and *Punit*. They all as well as *Mohit*, were put on surveillance and Call Detail Records of their mobile phones were obtained.
5. On receiving a secret information, ASI Satyabir Singh along with AGP Pawan Kumar, Insp, Maninder Singh and ASI Deepender Singh went to *Katra, Jammu* on 19.03.2013, but not lead was found. Upon returning to Delhi, further interrogations were made from *Mohit*, wherein he confessed that he had committed the robbery along with *Damandeep, Gautam @ Kaka and Punit*. Accused *Mohit* was arrested and his disclosure statement was recorded.
6. The tracking of the mobile phones of *Damandeep Chawla, Gautam @ Kaka and Punit*, pointed that they were located in *Jalpaiguri, West Bengal*. Accordingly, Police team went there and with the assistance of local police, they apprehended the accused *Punit Sahni, Gautam Mehra @ Kaka and Damandeep Chawla* on 22.03.2013 and Rs.22,000/-, Rs.23,000/- and Rs.44,000/- respectively were recovered from their possession.
7. On 23.03.2013, ASI Satyabir Singh along with H.C. Dilbag Singh, H.C. Ajay Kumar, ASI Deepender Singh and ACP Pawan Kumar also reached *Jalpaiguri* and the case property as well as the personal search



articles of the accused persons, were handed over by SI Naveen Kumar. Remand of all the three accused persons was obtained and on reaching Delhi, they were produced before the Court on 25.03.2013. Thereafter, five days' remand of all three accused was obtained and during interrogation, they confessed about their involvement in the commission of the offence.

8. On 26.03.2013, *Mohit got recovered* the robbed bag of the complainant, from his house. On 27.03.2013, *Damandeep got recovered* one ATM card, one visa card and one cheque book of Dena Bank, from an almirah in his house. He also got recovered the car keys, which had been used by them for committing the robbery. On the same day *Gautam @ Kaka got recovered* one polythene bag from his house which contained two pen drives, one Visa ATM card of ICICI Bank in the name of Neha Bansal and one Airtel mobile phone bill in the name of Rakesh Bansal. *Punit also got recovered* two debit cards in the name of Rakesh from the second floor of his house.

9. At the instance of accused *Damandeep, Gautam and Punit*, White Colour Accent car having number plates of DL-4C-AQ-2202 was recovered from Chandan Vihar, Nihal Vihar, Delhi. Its actual registration number was HR-51-AH-2687 and in respect of this car FIR No.0038/2013 under Sections 392/34 IPC had been registered at PS: Dwarka South, New Delhi. The number plates of the car were seized by the IO and a separate *kalandra* under Section 102 Cr.P.C. was prepared in respect of the car.

10. On 28.03.2013, Police team lead by ASI Satyabir Singh and the accused *Damandeep, Gautam and Punit* went to Amritsar, Punjab, whereby co-accused *Pradeep @ Rinku* was apprehended with the help of the local Police, from his Village Bachi Pind, P.S.: Lopoke, Punjab. On 29.03.2013,



Police team and all the four accused persons returned to Delhi and accused persons were produced before the Court on 30.03.2013. Accused *Damandeep, Gautam and Punit* were sent to Judicial Custody and *Pradeep @ Rinku* was sent to three days' Police remand.

11. During his Police remand, *accused Pradeep @ Rinku* got recovered a polythene bag which contained one passbook of Union Bank, phone bill of Tata Indicom, two bill receipts and cash amount of Rs.25,000/- from the house of his paternal aunt at Uttam Nagar, Delhi. He disclosed that he had received this amount as his share in the looted money. Thereafter, at the instance of accused Pradeep @ Rinku, Site Plan of place of occurrence was prepared and on 02.04.2013, he was sent to Judicial Custody.

12. During investigations, I.O. ASI Satyabir Singh moved an Application before the Court for TIP of the accused persons namely Damandeep, Gautam, Punit and Pradeep @ Rinku. *However, all four accused refused to participate in the TIP.* TIP of the bag was also got conducted, wherein Complainant Rakesh Bansal identified his bag.

13. After the completion of investigations, **Chargesheet** was filed in the Court on **19.06.2013**.

14. On **25.09.2013**, **Charges** were framed under Sections 120B/392/394/395/34 IPC against all four accused persons. They were also charged for the offence under Section 412 IPC in respect of the recoveries effected from them. All the accused persons pleaded not guilty to the Charges and sought Trial.

15. Prosecution, in support of its case, examined **16 witnesses**.



16. **PW-1 Rakesh Bansal** is the Complainant, who deposed about the robbery and also identified the robbed articles recovered from the Respondents.
17. **PW-2 H.C. Rajiv Kumar** registered the FIR as Ex. PW-2/A.
18. **PW-3 Ct. Rajesh** and **PW-7 H.C. Dilbagh Singh**, were the members of Police Team on 27.03.2013 and has deposed that they had accompanied ASI Satyabir Singh, I.O. to the spot on receiving DD No.14A, and joined the investigations.
19. **PW-4 H.C. Sanjeev** had deposed that on 27.03.2013, he along with ASI Satyabir Singh and Police team along with the accused Damandeep Chawla, Gautam and Punit, had gone to the house of the accused Damandeep Chawla at Jain Colony, Uttam Nagar, Delhi from where the recoveries were affected. He had also joined the IO in getting Accent car recovered. He also accompanied the Police team to Bachi Pind Village, Amritsar, Punjab from where accused Pradeep @ Rinku was arrested.
20. **PW-9 ASI Subhash Chand Rai**, **PW-10 ASI Kalipada Burman**, **PW-14 Insp. Maninder Singh** and **PW-15 SI Naveen Kumar** were the member of Police Team, which went to Jalpaiguri, West Bengal on 23.03.2013 and arrested accused Damandeep Chawla, Punit Sahni and Gautam Mehra.
21. **PW-12 H.C. Ajay Kumar** had joined the ASI Satbir Singh, IO on 26.03.2013 and had interrogated accused Damandeep, Gautam, Punit and Mohit after obtaining their police custody.
22. **PW-13 Ct. Charanjeet** deposed had joined the Police team on 28.03.2013 to the house of the accused Punit from where recoveries were affected.



23. Both **PW-8 H.C. Lalu Ram** MHC(M), PS Dwarka and **PW-16 ASI Vijay Kumar** MHC(M), PS Mianwali Nagar, proved the relevant entries of Register No.19.

24. The *statement of the five accused persons/Respondents* were recorded under *Section 313 Cr.P.C. on 02.06.2017*, wherein all the incriminating evidence were put to them, which they denied and claimed that they have been falsely implicated in this case.

25. **Learned ASJ**, after appreciating the entire evidence, observed that the Complainant could not have possibly seen the faces of the accused persons, who were present in the car at the time of conviction. The sketches of only two persons could be prepared, during the investigations. Furthermore, the accused Damandeep was identified from his photograph, but there was no evidence to show that the photograph or sketches had been carried by the Police to Jalpaiguri and thus, doubted the involvement of Damandeep in the commission of offence. **Therefore, benefit of doubt was given to all the accused persons and they were acquitted for the offence under Sections 392/394/34 IPC.**

26. Insofar as the offence under Section 412 IPC is concerned, it was observed that possibility of the bags produced for the purpose of mixing while conducting TIP having been shown to the Complainant could not be ruled out. There was no specific identification mark of the bag given by the Applicant. The alleged recoveries were also considered to be suspect and it was observed that there was nothing to connect the alleged recoveries with the robbery from the Complainant. **Learned ASJ thus acquitted, all the five accused persons of all the offences, giving them benefit of doubt.**



27. *Aggrieved by the acquittal of the Respondents, the present Appeal has been filed by the State.*

28. The **grounds of challenge** are that evidence has not been appreciated by learned ASJ, in the correct perspective. It has not been appreciated that all the Prosecution Witnesses had duly supported the case of the prosecution beyond reasonable doubt.

29. **PW-1 Rakesh Bansal**, Complainant, in his testimony, fully supported the case of the prosecution in regard to robbery committed by the Respondents. He also identified the Respondents in the Court. During his cross-examination, complainant explained that Respondent No.2/Gautam Mehra @ Kake had snatched the bag from his shoulder while Respondent No.5/Pradeep @ Rinku had punched him on his forehead.

30. Therefore, learned Trial Court had no reason to disbelieve the testimony of the Complainant, in regard to identification of Respondent No.2/Gautam Mehra @ Kake and Respondent No.5/Pradeep @ Rinku, who were not only identified, but their roles were categorically narrated. The recoveries affected from the Respondents have been incorrectly disbelieved, as the recovered items were duly identified by the Complainant.

31. It has not been considered that the Prosecution case was proved beyond reasonable doubt and the impugned Judgment of Acquittal, is liable to be set aside.

Submissions heard and the record perused.

32. The **case of the Prosecution** is that the five Respondents along with their associate, Vineet, entered into a criminal conspiracy of looting and thereby looted the Complainant's bag and other belongings on 14.03.2013 and thereby committed the offence under **Section 120B IPC**.



Whether Criminal Conspiracy to Commit Dacoity is Established:

33. To prove the charge of criminal conspiracy under Section 120B IPC, it was incumbent upon the Prosecution, to establish that there was an *agreement* between the Respondents, to commit the **dacoity**. There is no direct evidence of this criminal conspiracy and the entire prosecution case rests on circumstantial evidence.

34. The *first circumstance* relied upon by the Prosecution to establish conspiracy, is that the Respondent No. 4/Mohit Kumar Singal, who was previously in the employment of the Complainant, had earlier cheated the Complainant in respect of which FIR No. 282/2011 under Section 392/394/34 IPC, had been registered at P.S. Saraswati Vihar. After being terminated by the Complainant, he started working with the Respondent No.1/Damandeep Chawla. During the course of his employment, the Respondent/Mohit Kumar Singal came in contact with the Respondent No. 2/Gautam Mehra @ Kake and Respondent No.3/Puneet Sahni, to whom he told about the financial status of the Complainant. Thereafter, they all along with the Respondent No. 3, Puneet Sahni and one Vineet, entered into a conspiracy to loot the Complainant.

35. However, except these averments, *there is nothing to show that these people ever conspired or they had any meeting of mind prior to the commission of the offence, to enter into any conspiracy.*

36. The mere fact that Mohit Kumar Singal had at once upon a time being in the employment of the Complainant or that an FIR was registered against him, is not a circumstance from where any element of conspiracy, can be inferred. Furthermore, as has been rightly observed by the learned ASJ, there is *not a single document placed on record to establish that Mohit*



Kumar Singal had joined the employment of Damandeep Chawla. There is no cogent evidence either by way of call detail records or their locations or any other instance, which could establish any link or association between them at any point of time.

37. There being no evidence whatsoever in regard to the conspiracy. The offence under Section 120B IPC remains unsubstantiated. **The Respondents have been rightly acquitted by the learned ASJ, for the Charge under Section 120B IPC.**

The offence of Dacoity under Section 395 IPC:-

38. The Respondents were also charged for the offence punishable under Section 395 IPC.

39. The offence of dacoity is defined under Section 391 as under:-

Section 391 Dacoity:

*“When **five or more persons conjointly commit or attempt to commit a robbery**, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit “dacoity”.*

40. The bare reading of the Section reflects that it has to be shown that there were **five or more persons**, who were present and aided in commission of the robbery. In case the involvement of five persons is not established, the Charge of dacoity fails. Further the word “*conjointly*” used in the Section manifestly refers to united or concerted action of these persons participating in the offence of dacoity. Mere presence amongst the robbers with no other act attributable, is not sufficient to constitute dacoity.



41. The burden was on the Prosecution, to prove beyond reasonable doubt that all the five Respondents were involved in this offence of dacoity.

42. **PW-1 Rakesh Bansal is the only eye witness** to this entire incident. He has deposed that on 14.03.2013 at about 12:00 noon, he reached *Service Lane, Pira Ghari near Metro Station, in front of Ashoka Enclave* and parked his car there. As he got down, two boys came there, one of them tried to snatch the bag (*who was identified as Gautam Mehra @ Kake*), which he was carrying on his shoulder while the other (*who was identified as Pradeep @ Rinku*) gave him punch blows on his nose because of which, his spectacle broke. After snatching his bag, these two started ran but were given chase by the Complainant. They both reached in Accent Car of white colour bearing Registration No. DL 4C AQ 2202, in which two boys *identified as Damandeep Chawla and Punit Sahni*, were already seated. Gautam and Punit Sahni, got into the backside and they all escaped in the car. The testimony of PW-1 discloses the involvement of only four Respondents.

43. In the entire testimony of PW-1, there is no mention of presence of Mohit Kumar Singal or Vineet, on the scene of crime or their **involvement in the commission of the offence**. He deposed that he suspected Mohit Kumar Singal, his former employee to have been the master mind of this offence, as he had committed a similar offence in the past. Pertinently, PW-1/Rakesh Bansal in his cross-examination, categorically deposed that Mohit Kumar Singal *was not present at the spot* at the time of the incident.

44. According to the Prosecution, **Mohit Kumar Singal was arrested on 22.03.2013** at around 12:30 p.m., being a suspect named by the Complainant. He made a Disclosure Statement on 22.03.2013, Ex.PW-13/C in which he divulged the involvement of co-accused, Damandeep Chawla,



Gautam Mehra @ Kake and Punit Sahni as being the participants in the commission of the offence.

45. Pursuant to his Disclosure Statement, the three co-accused, Damandeep Chawla, Gautam Mehra @ Kake and Punit Sahni, were arrested on 22.03.2013, from Jalpaiguri, West Bengal. Their Disclosure Statement were recorded wherein they revealed the name of co-accused, Pardeep @ Rinku and one Vineet as being involved in the offence.

46. The only evidence against **Mohit Kumar Singal** is the suspicion that was expressed by the Complainant in his Statement and that there was an earlier FIR registered against him, on the Complaint of Mr. Rakesh Bansal. Further, the Disclosure Statement of Mohit Kumar Singal, Ex.PW-13/C admitting his involvement. However, the suspicion or the Disclosure Statement of Mohit Kumar Singal, is not the cogent evidence to establish the involvement of Mohit Kumar Singal, in this offence of dacoity.

47. There has also been a claim of **Vineet** being present on the spot, but there is no evidence whatsoever in the testimony of PW-1, Mr. Rakesh Bansal implicating him in any manner. The entire investigations conducted by the Police, have also not been able to get any cogent admissible evidence against him.

48. Learned ASJ has thus, rightly acquitted Mohit and Vineet for the offence of Dacoity.

49. The other four accused are Damandeep Chawla, Punit Sahni, who were allegedly present in the car in which accused Gautam Mehra @ Kake and Pradeep @ Rinku, after committing the robbery, escaped from the scene of crime.



Arrest of the other accused persons, namely, Damandeep Chawla, Punit Sahni, Gautam Mehra @ Kake and Pradeep @ Rinku:

50. Interestingly, Mohit Kumar Singal was arrested on 22.03.2013 at 12:30 p.m. and it was he who in his Disclosure Statement, Ex.PW-13/C disclosed the names of the aforesaid four accused persons.

51. As per the Prosecution, on getting to know the names of these other co-accused, the Police went to Jalpaiguri, West Bengal and apprehended Damandeep Chawla and Gautam Mehra @ Kake, from *Netaji Subhash Mor, Station Road, West Bengal*.

52. As per **PW-15/SI Naveen Kumar**, on the direction of Senior Officers, they reached Jalpaiguri, West Bengal and on arrival, made an entry in the local Police Post, New Jalpaigudi from where they took two Police Officials, PW-9/ASI Subhash Chand Rai and PW-10/ASI Kalipada Burman. Thereafter, they reached near Netaji Subhash Mor Chowk near Jalpaiguri Railway Station at 11:00 -11:15 p.m. and found the accused, Damandeep Chawla standing along with the other two associates, Punit Sahni and Gautam Mehra @ Kake, whose names they ascertained subsequently. *The three Respondents were apprehended by the Police.*

53. Before proceeding further, it is pertinent to note that the Police came to know of the names of *Damandeep Chawla, Punit Sahni and Gautam Mehra @ Kake, as well as, of Pradeep @ Rinku*, only from the Disclosure Statement of Mohit Kumar Singal, which was recorded at 12:30 p.m. on **22.03.2013**. Thereafter, some time must have been taken by the Police to record the Disclosure Statement. *Interestingly, how they reached Jalpaigudi, West Bengal on the same day and were able to apprehend Damandeep*



Chawla, Punit Sahni and Gautam Mehra @ Kake, at about 11:00 -11:15 p.m., leaves much to be said.

54. Further, in this context, it is also pertinent to refer to the testimony of **PW-9/ASI Subhash Chand** and **PW-1/ASI Kalipada Burman**, local Policemen of New Jalpaiguri, who had accompanied the Delhi Police for apprehension of the three accused. Both these witnesses in their respective testimony, admitted their signatures on the seizure memos/recovery memos, Ex.PW-9/J, PW-9/K, PW-9/L but denied that any recovery was made in their presence. They both in their cross-examination, stated that no proceedings were conducted by the officials of Delhi Police in their presence and both had signed the documents in the Police Station, at the instance of Delhi Police. *The testimony of these two witnesses, therefore, failed to corroborate the testimony of PW-15/SI Naveen Kumar along with PW-14/Inspector Maninder Singh, about the apprehension of the three Respondents, from the Railway Station on 22.03.2013, as has been claimed by the Prosecution.* It is indeed intriguing as to how getting to know the names of these Respondents, from the disclosure of Mohit Kumar Singal, who was arrested on the same day at 12:30 p.m. on 22.03.2013, the Delhi Police was able to reach Jalpaiguri on the same day and searched for the Respondents and thereafter, apprehended the three accused.

Discrepancy regarding photo/sketch prepared of the accused persons:

55. Another aspect to be noted is that while Gautam Mehra @ Kake and Pradeep @ Rinku were claimed to have assaulted the Complainant while snatching the Bag, the entire incident happened in a few moments and to say that the Complainant was able to identify them, is difficult. However, as per the Prosecution, as already noted, sketches were prepared but they have not



been produced to corroborate the identity of Gautam Mehra @ Kake and Pradeep @ Rinku.

56. Admittedly, Damandeep Chawla and Punit Sahni were sitting in the Car when the other two accused got into it to escape. It has been rightly noted by the learned ASJ that it is difficult to accept that the Complainant would have been able to seek these persons from behind or could register their identity in the meeting moments.

Apprehension of Damandeep Chawla, Punit Sahni, Gautam Mehra @ Kake and Pradeep @ Rinku from Jalpaiguri:

57. Furthermore, it is also intriguing to consider the evidence of the Prosecution as to how these three Respondents were identified. From the testimony of PW-1/the Complainant it emerges that *the four assailants were not known to him*. According to his testimony, sketches of Pradeep @ Rinku and Gautam Mehra @ Kake were prepared in the Police Station, at his instance. However, there is no sketch whatsoever proved in the evidence of any of the Police Officials. There is also no cogent evidence to reflect that they had carried these sketches with them when they allegedly went to Jalpaiguri. Rather PW-15/SI Naveen Kumar, who had apprehended and arrested the accused persons, deposed that he had the photograph of Damandeep Chawla with him with the help of which he identified him. From where and how this photograph of Damandeep Chawla was procured, has not been explained by PW-15. In fact, only two sketches and that too, of Gautam Mehra @ Kake and Pradeep @ Rinku, had been prepared. **There is no explanation in the testimony of PW-15/SI Naveen Kumar about the source of this alleged photograph.**



58. Pertinently, *PW-9/ASI Subhash Chand Rai* of Police Station New Jalpaiguri, West Bengal, who had assisted *PW-15/SI Naveen Kumar* in the apprehension of the accused persons, deposed that the Delhi Police had not brought any photograph of any accused persons.

59. The Prosecution had not been able to lead any evidence to explain how the three Respondents, *Damandeep Chawla*, *Gautam Mehra @ Kake* and *Punit Sahni*, were identified by them and they actually having gone to arrest them.

60. Furthermore, the manner in which the Respondent/*Mohit Kumar Singal*, has been apprehended and his disclosure recorded and on the same day, the Police was found in *Jalpaigudi*, reflects that the Police already had apprehended *Mohit Kumar Singal* on an earlier date and from his interrogation, had got the name of the three accused, who were claimed to be in *Jalpaiguri* and that only can be the explanation for the Delhi Police, to be there in *Jalpaiguri*, within hours of the alleged disclosure.

TIP of the three accused *Damandeep Chawla*, *Punit Sahni* and *Gautam Mehra @ Kake*:

61. The next pertinent fact is the TIP of the three Respondents, *Damandeep Chawla*, *Punit Sahni* and *Gautam Mehra @ Kake*. They were produced before the Court of learned Metropolitan Magistrate on 25.03.2013. Their Police remand was obtained by the Investigating Officer. However, the specific directions were given by the Court, to ensure that they were kept in muffled face during the period of remand. However, it emerges that the Investigating Officer failed to comply with the directions and produced them in the Court on 30.03.2013 in unmuffled faces. Furthermore, an Application for Test Identification Parade (TIP) of these Respondents,



was filed by the Investigating Officer on 14.03.2013 i.e. after a gap of more than 15 days. There is no explanation forthcoming for this delay; rather it creates a doubt about the accused persons not having been shown to the Complainant, during this time.

62. In the TIP proceedings, Ex.PW-6/D, PW-6/F, PW-6/I and PW-6/L of these three accused, they all refused to participate in the proceedings on the ground that their photographs had been obtained by the Investigating Officer and shown to the Complainant. This assertion of the Respondents, is well supported by the manner in which the investigations have been done and the delay with which the TIP was sought to be conducted of these Respondents especially when they were not being produced in muffled faces despite the directions of the Court.

63. Significantly, PW-1/Mr. Rakesh Bansal, whose testimony was recorded in the Court on 07.11.2013 i.e. after about eight months of the incident, identified the Respondents as the assailants though he was unable to assign any specific role to them. This clearly indicates that these four persons were identified by him for the first time in the Court since they were the accused appearing in the court, but was unable to give any specific role. Had he in fact identified them, there was no reason why he could not depose about their respective roles.

64. The learned ASJ has rightly concluded that the identification of these Respondents in the Court, is not beyond suspicion.

Discrepancy regarding arrest of the accused, Pradeep @ Rinku:

65. The *fifth co-accused*, who according to the Prosecution, had participated in the commission of dacoity, was **Pradeep @ Rinku**. According to PW-15/SI Naveen Kumar, I.O., he came to know about the



whereabouts of Pradeep @ Rinku, from the Disclosure Statement dated 26.03.2013, Ex.PW-12/A of Damandeep Chawla, Disclosure Statement of Gautam Mehra @ Kake, Ex.PW-12/B, recorded on 22.03.2013 and of Punit Sahni, Ex.PW-12/C recorded on 26.03.2023 wherein they all had stated that Pradeep @ Rinku and Vineet, were present in Delhi and Amritsar. According to PW-15, he along with his Police staff and the co-accused, Damandeep Chawla, Gautam Mehra @ Kake and Punit Sahni, went in search of Pradeep @ Rinku and reached Police Station Lopoke, Amritsar. They contacted the local police and with them went to Gaon Bachi Pind. At the pointing of the accused persons, *Pradeep @ Rinku* was apprehended from outside the village at the instance of the three Respondents. He was interrogated and he admitted his involvement *vide* his Disclosure Statement, Ex.PW-13/J.

66. It is interesting to note that none of the co-accused, had given the exact location of the Respondent, Pradeep @ Rinku but had merely stated that he had his location somewhere in Amritsar. Interestingly, the Disclosure Statement of Gautam Mehra @ Kake, had been recorded on 22.03.2013 and those of Damandeep Chawla and Punit Sahni on 26.03.2013, in which the exact location of Pradeep @ Rinku, had not been indicated. However, PW-15, SI Naveen Kumar, at the instance of three co-accused, apprehended him from outside village. How did he reach *Village Bachi Pind* or how was he able to reach the spot from where Pradeep @ Rinku was apprehended, is not explained in the testimony.

67. Moreover, as per PW-15, he had taken the Local Police along with him for apprehension of Pradeep @ Rinku, but neither any DD Entry has



been proved nor was the Local Police Officials of Amritsar, had either been cited as witnesses or examined.

68. The entire manner in which the apprehension of Pradeep @ Rinku, has been shown by PW-15/SI Naveen Kumar, only leaves one with a suspicion in the mind of the arrest of Pradeep @ Rinku. **The manner in which the Prosecution has shown the apprehension of the Respondent, Pradeep @ Rinku, is completely unbelievable.**

69. The learned ASJ had thus rightly concluded that the identity of these four accused persons in the alleged offence of dacoity, has not been proved beyond reasonable doubt. The benefit of which, has been rightly extended to the Respondents for the offence under Section 395 IPC.

Articles Recovered from the Accused Persons for the offence under Section 412 IPC:

70. The Respondents have further been charged for the offence under Section 412 IPC, in respect of robbed articles allegedly recovered from their possession. It be also noted that in the Complaint Ex.PW1/A, the stolen amount was asserted to be Rs.7,00,000/-, of which no proof whatsoever, has been given.

Recovery of Black Bag:

71. At the outset, it may be observed that there was nothing on record to show that the alleged recovered articles in fact were those present in the bag of the Complainant.

72. As per the Prosecution, on 26.03.2013, the Respondent/Mohit Kumar Singal got recovered the bag in question from his house situated in Uttam Nagar, Delhi. The recovery was affected by PW-15/SI Naveen Kumar, who



was accompanied with PW-12/Head Constable Ajay Kumar, who both deposed that the bag was recovered *from under the cot in the room of the house of Mohit Kumar Singal*.

73. Pertinently, while PW-12/HC Ajay Kumar stated that the house consisted of a ground floor and first floor, according to PW-15/SI Naveen Kumar it was a single-story house. Moreover, according to PW-12/HC Ajay Kumar, at the time of their visit, the father and sister of the Respondent No. 4/Mohit Kumar Singal, were present while according to PW-15, only one lady was present. Both these witnesses denied their knowing anything about the ownership of the house.

74. There is no evidence about the house being owned by Mohit Kumar Singal or it being in his possession. Furthermore, there are material discrepancies about the description of the house, which in fact creates a doubt if the recovery indeed was affected from the house at the instance of Punit Sahni, as deposed by these recovery witnesses. **Learned ASJ thus, rightly held that this alleged recovery from the house allegedly belonging to the Respondent, Mohit Kumar Singal, is not about suspicion.**

TIP of the black bag:

75. Another significant aspect, which has been noted by the learned ASJ, is that the TIP of the bag was done on 01.05.2013. For the purpose of TIP, the Investigating Officer had produced four black colour raxine bags, which were mixed with the bag in question for the purpose of TIP. However, these four other bags were neither been deposed to have been produced in sealed cover or that they were not shown to the Complainant before the TIP. The Complainant no doubt, carefully identified the bag during the proceedings



but the possibility of the other bags being shown to the Complainant, cannot be ruled out. The identification of the Raxine bag by the Complainant, in the TIP, can also not be held as a suspect to prove the guilt of the Respondents.

Recovery of other Articles:

76. As per the Prosecution, when Damandeep Chawla, Punit Sahni and Gautam Mehra @ Kake, were apprehended from the Railway Station at Jalpaigudi, West Bengal on 22.03.2013, their respective search was conducted. Damandeep Chawla was found in possession of Rs.44,000/- while Punit Sahni and Gautam Mehra @ Kake were found in possession of Rs.22,000/- and Rs.23,000/- respectively. Pertinently, the alleged incident had happened on 14.03.2013 while the recovery was made after eight days on 22.03.2013. It is highly unlikely that these three persons would be carrying robbed money on their person. Even if it is **accepted that the money was recovered from their respective possession, however, there is nothing to establish that the recovered money was indeed the money robbed from the Complainant.**

77. Admittedly, no document in proof of this money belonging to him, had been given by the Complainant. Furthermore, the recoveries were claimed to have been made in the presence of PW-9/ASI Subhash Chand Rai and PW-10/ASI Kalipada Burman, Local Police of Jalpaiguri, but they have categorically denied that any recovery was ever made in their presence. **The alleged recoveries of money from the three Respondents have, therefore, rightly been held to be not proved by the Prosecution.**

78. Further, as per the Prosecution, after Damandeep Chawla, Punit Sahni and Gautam Mehra @ Kake were brought to Delhi, they got recovered the stolen articles from their respective houses.



79. Respondent/Damandeep Chawla got recovered two VISA Cards of Kotak Mahindra Bank (one in the name of Complainant, Mr. Rakesh Bansal and other in the name of Neha) and one cheque book of Dena Bank being in the name of Smt. Sushila and Sh. Om Prakash from the almirah of his house, which were seized vide Memo Ex.PW-7/A. PW-13/Constable Charanjeet was a recovery witness, but he was held as not reliable. He had deposed that after the recovery of two Debit Cards of SBI, one cheque of ICICI Bank, one ATM Card, they had come to the Office of AATS. The alleged recoveries are not beyond the suspicion, considering that their apprehension of the Respondent, Damandeep Chawla itself is under suspicion.

80. Likewise, according to PW-13/Ct. Charanjeet, **Respondent/Gautam Mehra @ Kake** got recovered two pen drives, one visa card of ICICI Bank in the name of Ms. Neha and one Airtel Phone number in the name of the Complainant, Mr. Rakesh Bansal.

81. Similarly, the **Respondent/Punit Sahni** got recovered from his house two Debit Cards of SBI, both in the name of Mr. Rakesh Bansal, which were seized vide Memo Ex.PW-7/A, Ex.PW-13/D and Ex.PW-13/G respectively. Learned ASJ has rightly disbelieved the testimony of PW-13, Constable Charanjeet in regard to the recoveries by observing that there was no evidence led as to who was Ms. Neha and how her Debit Cards and documents, were found in the bag of the Complainant.

82. Even otherwise, it cannot be overlooked that these are the innocuous documents of no relevance. It is difficult to comprehend that a person, who has committed dacoity, would hide them in their respective houses and lead for its recovery on 27.03.2013, though the offence was committed on 14.03.2013.



83. Furthermore, according to the Prosecution, cash of Rs.25,000/-, one Cheque Book of Union Bank of India in the name of Mr. Om Prakash and one mobile phone in the name of Mr. Rakesh Bansal, were recovered from the house of the Aunt (*Bua*) of **Respondent/Pradeep @ Rinku**. As rightly noted by learned ASJ, since the house belonged to *Bua* of the Respondent, there is no cogent evidence to suggest that he was in conscious possession of the said articles.

84. Thus, it does not appeal to reason that any person, who has committed robbery, would keep such documents of no worth or value in their houses rather than disposing them of. Also, it defies logic as to why these documents which had no monetary value, would have been distributed amongst the Respondents, defies logic. *It rather points out to the recoveries being planted on these Respondents, only to establish the Prosecution Case.*

Conclusion:

85. In the light of the above discussion, the learned ASJ rightly concluded that the offences under Section 120B/392/394/395/412/34 of IPC, have not been proved by the Prosecution beyond reasonable doubt, benefit of which has been rightly extended to the Respondents to acquit them.

86. There is no merit in the present Appeal, which is hereby **dismissed** and disposed of accordingly along with the pending Applications.

(NEENA BANSAL KRISHNA)
JUDGE

NOVEMBER 07, 2025/R/RS