



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

% Date of Decision: 18.09.2025

+ **CRL.A.920/2016**

STATE (GOVT OF NCT OF DELHI)Appellant
Through: Ms Shubhi Gupta, APP for State.

Versus

ARIF & ANRRespondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal, filed under Section 378 Cr.P.C., seeks to assail the impugned judgment dated 23.12.2014 passed by the learned ASJ-4 (Shahdara), Karkardooma Courts, Delhi in Sessions Case No. 37/2014 arising out of FIR No. 125/2011 registered under Sections 323/458/380/34 IPC at P.S. Gokal Puri, qua which respondent nos. 1 and 2 herein were acquitted of the offence punishable under Section 411 IPC.
2. The FIR came to be registered in the context of an incident that statedly took place on 15.04.2011 at about 01:30 AM, when the complainant's son heard noises coming from the adjacent property where the complainant was running a factory. He looked out from the window and saw one person standing there, upon which he woke up his father/the complainant, and his younger brother. The complainant, along with his two sons *Asif* and *Rashid*, came out of the house and raised an alarm. Two



persons fled with some articles from the factory. The third person took out a knife and threatened to kill them if they tried to catch him; however, the complainant and his sons managed to apprehend him and took the knife into their possession. In the process, the complainant, his son *Asif*, and the accused, suffered injuries. The complainant gave a description of the articles that were reportedly stolen, which included one DVD player, one golden-colour Sonata watch in a red-colour box, one silver necklace with green and red *meenakadi* studded with white pearls, two earrings with green and red *meenakadi* bearing the mark of IS Jewellers, and cash of Rs.2000/-. The respondents herein were arrested and some articles were statedly recovered at their instance. A DVD player, necklace, and earrings were recovered from the house of respondent no. 1 and a watch was recovered from the residence of respondent no. 2. Charges under Sections 457/352/394/397/34 IPC and Sections 25/27 Arms Act were subsequently framed against co-accused *Wasim*, and charges under Section 411 IPC were framed against respondent nos. 1 & 2.

3. The Trial Court has noted that the articles recovered did not match the description of the articles stated to have been robbed. The discrepancy arose not only with respect to the colour but also with respect to the make of the said articles. Further, no TIP of the recovered property was conducted. Though a golden-colour Sonata watch was stated to have been recovered from the house of respondent no. 2 in the presence of the complainant, the witness in his cross-examination stated that no recovery was effected from any of the accused persons in his presence. The recovery of articles was, thus, disbelieved by the Trial Court.



4. The prosecution has sought to assail the said finding by contending that the complainant identified the recovered articles during trial. However, this Court is of the considered view that once the Trial Court arrived at a conclusion that the discrepancy related not only to the colour but also to the make of the articles, and further, when the complainant himself admitted that no recovery was effected in his presence, the Trial Court was right to disbelieve the recovery and grant the benefit of the doubt to the respondents.

5. It is apposite to note that an order of acquittal by the Trial Court raises an additional presumption of innocence in favour of the respondents, over and above the presumption already afforded to every accused until conviction. The law pertaining to double presumption of innocence is fortunately a settled position, no longer *res integra*. A gainful reference may be made to the Supreme Court's decision in Ravi Sharma v. State (NCT of Delhi), reported as **(2022) 8 SCC 536**, wherein it was observed as under:

“8. ...We would like to quote the relevant portion of a recent judgment of this Court in Jafarudheen v. State of Kerala [Jafarudheen v. State of Kerala, (2022) 8 SCC 440] as follows : (SCC p. 454, para 25)

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the appellate court has to consider whether the trial court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.””

6. The decision of the Supreme Court in Anwar Ali v. State of H.P., reported as **(2020) 10 SCC 166**, categorically holds that the principles of



double presumption of innocence and benefit of doubt should ordinarily operate in favour of accused persons in an appeal against acquittal. The relevant portions are produced hereinunder:

“14.1. In Babu [Babu v. State of Kerala, (2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179], this Court had reiterated the principles to be followed in an appeal against acquittal under Section 378 CrPC. In paras 12 to 19, it is observed and held as under: (SCC pp. 196-99)

‘...

13. In Sheo Swarup v. King Emperor [Sheo Swarup v. King Emperor, 1934 SCC OnLine PC 42 : (1933-34) 61 IA 398 : AIR 1934 PC 227 (2)] , the Privy Council observed as under: (SCC Online PC: IA p. 404)

‘... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses.’

...

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.’”

7. After hearing the learned APP for the State at length and perusing the record, this Court, in view of the aforesaid discussion, concurs with the conclusion arrived at by the Trial Court. The impugned judgement acquitting respondent nos. 1 and 2 of the charges under Section 411 IPC is



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upheld, and the present appeal is accordingly dismissed.

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

MANOJ KUMAR OHRI
(JUDGE)

SEPTEMBER 18, 2025/nb
(corrected & released on 23.9.2025)