



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

% Reserved on : 22.08.2025  
Pronounced on : 28.08.2025

+ **CRL.A. 802/2024**

MOHD. SAVEJ

.....Appellant

Through: Mr. Vinayak Bhandari, Ms. Teesta  
Mishra and Ms. Jaisal Singh,  
Advocates.

Versus

THE STATE (GOVT. OF NCT) DELHI

.....Respondent

Through: Mr Pradeep Gahalot, APP for State  
with SI Sunit P.S. Jagat Puri, Delhi.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

### **JUDGMENT**

1. By way of present appeal filed under Section 415(2) read with Section 424 BNSS, the appellant seeks to assail the judgment of conviction dated 09.05.2024 and order on sentence dated 30.05.2024 passed by the learned Additional Sessions Judge-07, Shahdara District, Karkardooma Courts, Delhi, in Sessions Case No. 341/2023 arising out of FIR No. 531/2023 registered under Sections 392/397/411 IPC at P.S. Jagat Puri.

Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 4 years alongwith fine of Rs.10,000/-, in default whereof he was sentenced to undergo SI for 6 months, for the offence punishable under Section 392 IPC; RI for a period of 7 years for the offence punishable under Section 397 IPC; and RI for a period of 1 year alongwith



fine of Rs.1,000/-, in default whereof the appellant was sentenced to undergo SI for 1 month, for the offence punishable under Section 411 IPC. All the sentences were directed to run concurrently and benefit under Section 428 Cr.P.C, was extended to the appellant.

2. The facts, in brief, as noted by the Trial Court are extracted hereunder:-

*“1. As per the case of prosecution, on 13.08.2023, on receiving DD no.5A, ASI Udaivir Singh along with Ct. Rajnish reached at Parwana Road, Jagat Puri, he searched for the caller, but in vain. ASI Udaivir Singh tried to call at the mobile phone of the caller, but that number was switched off. Thereafter, they returned to the PS and after waiting for the caller, they again went for the search of the caller and at the Khureji Red Light caller Yasin Saifi met them, who told about the incident that happened with him and took the ASI Udaivir and Ct. Rajnish to the spot i.e. Gali No. 4, Rashid Market, Jagat Puri, Delhi, near in front of H.No. 11/11- 11/12, where complainant Yasin Saifi told about robbery of his purse containing Rs. 2800/- and documents and the accused was searched in the nearby streets and when they reached near Patparganj Road, Block 15, Geeta Colony, Delhi, they saw one person, who was giving an indication to stop an auto, then the complainant Yasin Saifi identified that person as the one, who had shown knife and robbed his purse and when accused tried to flee, he was caught by the police and his name was revealed as Savej and one knife was recovered and black purse having Rs. 2800/-, copy of DL and Aadhar Card were recovered.*

*2. The complainant alleged that he was an auto driver and on 13.08.2023 at about 1 AM, he had dropped the passenger at Laxmi Nagar from Anand Vihar and was returning from Patparganj Road to his house at Seelampur and at about 1:30 AM, he reached near Rashid Market, where one person, who was standing on the side of the road, signalled with his hand to stop the auto and he stopped the auto and that person told complainant that his mother was unwell and she had to be taken to Hedgewar Hospital and Rs. 80/- fare was told to that person, to which he agreed and boarded the auto. Through Parwana Road, he took him inside the gali and at some distance near small 'Chauraha', he asked to stop the auto and de-boarded the same and put knife on the neck of the complainant and*



*told him to part with the articles he had, else he would inflict knife blow. Due to same, complainant got frightened and that person took out the purse from his pocket having Rs. 2800/-, copy of-DL and Aadhar Card and ran away from there and then complainant called at 112 number.”*

3. On conclusion of investigation, the charge-sheet was filed, and the Trial Court framed charges under Sections 392/397/411 IPC against the appellant, to which he pleaded not guilty and claimed trial. The prosecution examined 5 witnesses in support of its case, with the material witnesses being the complainant himself, who was examined as PW-1; Ct. *Rajnish*, who was examined as PW-2; and ASI *Udaivir Singh*, who was examined as PW-4. The remaining two prosecution witnesses were also police officials, who deposed as to various aspects of the investigation.

On the other hand, no defence evidence was led on behalf of the appellant. However, in his statement recorded under Section 313 Cr.P.C., he denied all prosecution evidence and claimed that he had been falsely implicated.

4. Learned counsel for the appellant contends that the prosecution case rests solely on the testimony of the complainant, there being no independent public witness to the alleged incident, and that all the other witnesses examined before the Trial Court are police officials. It is further argued that there was a delay in lodging the complaint and that discrepancies exist with respect to the time of the incident as stated by the complainant. The appellant's stand is that he had engaged the auto driver by the complainant, where a dispute arose between them regarding fare, and that it is on this account that he has been falsely implicated in the present case. It is also alleged that the recovery shown by the prosecution was planted.



5. Learned APP for the State, on the other hand, vehemently opposes the present appeal and argues that the consistent and reliable testimony of the complainant is sufficient to sustain the conviction, in light of the recovery of the robbed articles from the appellant. He further states that the delay in filing the complaint stands duly explained by the complainant's testimony and chain of events.

6. I have heard the learned counsel for the parties and gone through the record.

7. The complainant was examined as PW-1. He claimed that he was 9<sup>th</sup> class pass and an auto driver. He deposed that on the intervening night of 12/13.08.2023, at about 12:45–1:00 a.m., he was returning home on his TSR bearing registration no. DL1RW 8538, when the accused signalled him to stop, stated that his mother was unwell and had to be taken to Hedgewar Hospital, and asked for his help. PW-1, after initially refusing, ultimately agreed. The accused guided him to a lane, where he asked the accused to bring his mother if she was to be taken to the hospital. Instead, the accused took out a knife, placed it on PW-1's neck and threatened him, whereupon he took PW-1's purse from his pocket containing Rs.2,800/-, his Aadhaar Card and Driver's Licence, and fled. PW-1 returned home at around 2:00–2:15 a.m., having also dialled 112 en route, though the PCR officials could not trace the accused. At about 4:30–5:00 a.m., PW-1 was contacted by ASI *Udai* and went to Khureji Lal Batti. Along with ASI *Udai* and another police official, he proceeded to the place of occurrence, where the accused was again found signalling him to stop the auto. PW-1 identified him as the same person who had robbed him; and on attempting to flee, the accused was apprehended by the police. He was then taken to P.S. Jagat Puri, where PW-



1 also went and his statement (Ex. PW-1/A) was recorded. In Court, PW-1 identified the appellant herein as the said accused.

PW-1 further deposed that when the appellant was taken to P.S. Jagat Puri, the police officials informed him that his robbed articles, i.e., the purse containing Rs.2,800/-, his Aadhaar Card, and Driving Licence, had been recovered from the appellant. He identified his signatures on the documents prepared by the I.O., including the site plan dated 13.08.2023 (Ex. PW-1/B), the sketch of the knife (Ex. PW-1/C), the seizure memo of the knife (Ex. PW-1/D), the seizure memo of his purse along with Aadhaar Card, copy of DL, and Rs.2,800/- (Ex. PW-1/E), and the arrest memo of the appellant (Ex. PW-1/F). PW-1 further identified in Court the knife (Ex. P-1) as the weapon used during the robbery, and his purse with documents and cash (Ex. P-2 colly) as the articles robbed and recovered.

In cross-examination, PW-1 stated that after making the call at 112, his mobile phone had switched off due to battery discharge, and that it was after taking medicine and some rest at home that he later met ASI *Udai Veer Singh* near Khureji Lal Batti, to whom he narrated the incident. He reiterated that the appellant was apprehended in his presence and denied the suggestion that no such incident had taken place. He further denied that nothing had been recovered from the appellant or that the recoveries were planted, or that he had falsely implicated the appellant.

8. PW-2/Ct. *Rajnish* deposed that on 13.08.2023, on receipt of DD No. 5A, he accompanied ASI *Udaivir Singh*/PW-4 to Parwana Road, Jagat Puri, but the caller could not be traced and the phone number was found switched off. Later, near Khureji Red Light, they met the complainant, who narrated the incident and accompanied them to Gali No. 4, Rashid Market.



While searching further, at Patparganj Road near Block-15, Geeta Colony, the complainant pointed out one person signalling an auto as the same who had robbed him. On seeing the police, that person attempted to flee but was apprehended after a chase. PW-2 stated that a knife and a black purse containing cash and documents were recovered from the appellant. In Court, he identified the appellant herein as the same person apprehended in his presence, as well as the knife and purse produced in evidence.

In cross-examination, PW-2 stated that on first reaching the spot around 2:15 a.m., no one was found and they returned to the police station, thereafter leaving again at about 5:00 a.m. He denied the suggestions that no such incident had occurred, that the appellant had not been apprehended at the spot, that the recovery was planted, or that the appellant was falsely implicated at the instance of the complainant due to a fare dispute.

9. PW-4/ASI *Udaivir Singh*, the Investigating Officer, corroborated the testimony of PW-2 as to receipt of DD No. 5A, visiting Parwana Road, and the subsequent meeting with the complainant, which culminated in the apprehension of the appellant. He further deposed that after the appellant was apprehended, a personal search was conducted and one knife along with a black purse containing Rs.2,800/-, the complainant's Aadhaar Card and Driving Licence were recovered. He prepared the site plan (Ex. PW-1/B), the sketch of the knife (Ex. PW-1/C), the seizure memo of the knife (Ex. PW-1/D), the seizure memo of the purse and articles (Ex. PW-1/E), and the arrest memo of the appellant (Ex. PW-1/F). He also proved that the *rukka* prepared on the complainant's statement (Ex. PW-1/A) was sent for registration of FIR, after which the case property was deposited on the same date in *malkhana*. In Court, PW-4 also correctly identified the appellant



herein as the person apprehended, as well as the knife and purse when produced.

In his cross-examination, he stated that the knife was measured and sealed at the police station, while the currency notes and documents were deposited in unsealed condition. He denied suggestions that no recovery was effected, that the articles were planted in connivance with the complainant, or that the appellant was falsely implicated due to a fare dispute.

10. On a perusal of the record, it is observed that the complainant promptly called at 112 immediately after the incident, but his mobile phone switched off thereafter due to battery discharge. He thereafter reached home around 2:00–2:15 a.m., and later, at about 4:30–5:00 a.m., met PW-4 and PW-2 at *Khureji* Red Light, narrated the incident, and accompanied them for further inquiry, post which the appellant was apprehended. The timeline of events stands duly explained, no undue delay is attributable to the complainant, and the appellant's contention regarding delay in lodging of complaint is found to be without merit.

11. The immediate recovery of the robbed purse, cash and documents from the possession of the appellant at the time of his apprehension is of significant evidentiary value. PW-1 identified the purse, the cash, and his Aadhaar Card and Driver's Licence, all of which were recovered from the appellant. The testimonies of PW-2 and PW-4 corroborate this recovery and the preparation of the seizure memos and sketch of the knife. There is no material on record to suggest that the seized articles were planted, and the appellant was unsuccessful in dislodging the recovery through cross-examination.



12. As regards the discrepancy pointed out in relation to the timing of the incident, it is noted that PW-1 stated the occurrence to be around 12:45–1:00 a.m., while in his statement recorded by the I.O. he had mentioned about 1:30 a.m. In my view, such a minor variation is not material and does not dent the core of the prosecution’s case. Minor variations in the estimation of time, particularly in late-night occurrences, are natural and do not take away from the credibility of an otherwise cogent and trustworthy testimony.

The incident occurred around 1:00 a.m., which by itself explains the non-joining of public witness. PW-4/ASI *Udaivir Singh* had deposed that although the place of occurrence was a residential area, the gates of the houses were closed at that hour.

13. The complainant remains consistent on the material particulars, including the manner in which he was stopped, the pretext of taking the appellant’s mother to Hedgewar hospital, the taking of the TSR into the lane where the appellant placed a knife on his neck and threatened him to handover his belongings, snatching of his purse containing Rs.2,800/-, Aadhaar Card and Driver’s Licence. His testimony stands corroborated by the recovery from the appellant’s person of the knife, as well as the complainant’s black purse with the stated cash and documents, all duly seized under memos proved in evidence, and the testimonies of PW-2 and PW-4. The suggestions of false implication, planting of articles, or obtaining signatures on blank papers, remain bare assertions denied by the witnesses, and no defence evidence was led to substantiate them.

14. On these facts, the statutory ingredients of the offences for which the appellant has been convicted stand established. The act of forcibly taking the complainant’s purse after placing a knife on his neck squarely brings the



case within the ambit of Section 392 IPC.

Further, the employment of a knife while issuing threats amounts to the “use” of a deadly weapon is sufficient to sustain conviction under Section 397 IPC. Reference in this regard may be made to the decision of a three-Judge Bench of the Supreme Court in Ram Ratan Vs. State of M.P., reported as **2021 SCC OnLine SC 1279**, wherein it was held as under:

*“17. From the position of law as enunciated by this Court and noted above, firstly, it is clear that the use of the weapon to constitute the offence under Section 397 IPC does not require that the “offender” should actually fire from the firearm or actually stab if it is a knife or a dagger but the mere exhibition of the same, brandishing or holding it openly to threaten and create fear or apprehension in the mind of the victim is sufficient....”*

Lastly, recovery from the appellant of the robbed purse, containing the complainant’s cash and documents, establishes the offence under Section 411 IPC. The dishonest possession of stolen property, coupled with the proximity of recovery to the occurrence, leaves no doubt that the appellant had knowledge of its stolen character.

15. After a thorough examination of the record, this Court finds no reason to depart from the conclusions arrived at by the Trial Court. Accordingly, the present appeal is dismissed and the impugned judgment and order on sentence are upheld.

16. A copy of this judgment be communicated to the Trial Court and the concerned Jail Superintendent.

**MANOJ KUMAR OHRI**  
**(JUDGE)**

**AUGUST 28, 2025b/nb**