



State vs Satyavir @ Billu,
Cr. Reg. Case No- 634/2025
Date- 24.12.2025

Part- A

Additional Chief Judicial Magistrate, No-1, Kotputli, Dist.- Kotputli Behror

Name of The Presiding Officer	Simran Kaur, RJS
Date of Decision	24-12-2025
Criminal Regular Case No.	634/2025
Under Section	303(2) BNS
CIS No.	31166/2025
CNR No.	RJKB020050822025
F.I.R. No.	327/2025 Police Station, Paniyala

Complainant	State Government
Presented By	Prosecution Officer
Accuse	Satyavir @ Billu, S/o Rangrao, Age 38 Years, R/o Lambi Aheer, Police Station Patheri Kalan, Dist. Jhunjhunu, Rajasthan
Advocate For Accused	Sh. Ranjeet Meena

Part- B

Date of Offence	19-09-2025
Date of F.I.R	23-11-2025
Date of Charge sheet	19-12-2025
Date of Framing Charges	20-12-2025
Date of Start of Prosecution Evidence	22-12-2025
Date of Judgement	24-12-2025
Date of Reserving of Judgement	24-12-2025
Date of Order on Sentence	24-12-2025



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Part- C

Details Of Accused:-

Sr. No.	Name of Accuse	Date of Arrest	Date of Bail	Section	Acquitted / Convicted	Sentenced or not.	The Period of Detention during trial of the purposes of Section 468 BNSS
A1	Satyavir @ Billu	14-12-2025	-----	303(2) BNS	Convicted	Yes	10 Days

PART-II

List of Witness by Prosecution/Defence/Court:-

A- Prosecution-

Post	Name of witness	Nature of witness
P.W.-1	Khayaliram Yadav	Complainant
P.W.-2	Devender Singh	Investigating Officer
P.W.-3	Mahesh Kumar	Witness during arrest and seizure

List of Exhibits By Prosecution/Defence/Court

A- Prosecution

Sr. No.	Number of Exhibit	Detail
01	Exhibit P-1	Tehriri report
02	Exhibit P-2	Site map of the place of occurrence
03	Exhibit P -3	Arrest memo of accused
04	Exhibit P 4	Seizure memo of motorcycle no. RJ32 SF 3519
05	Exhibit P-4A	Copy of Seizure memo of motorcycle no. RJ32 SF 3519 received in Court.
06	Exhibit P-5	Site map of the place of recovery/seizure of motorcycle
07	Exhibit P-6	Panchnama of motorcycle no. RJ32 SF 3519
08	Exhibit P-7	Photograph of motorcycle no. RJ32 SF 3519
09	Exhibit P-8	Photograph of motorcycle no. RJ32 SF 3519
10	Exhibit P-9	Photograph of motorcycle no. RJ32 SF 3519
11	Exhibit P-10	Photograph of motorcycle no. RJ32 SF 3519
12	Exhibit P-11	Original F.I.R No.327/25
13	Exhibit P-12	Statement of accused under section 23(2) of BSA
14	Exhibit P-13	Requisition to obtain criminal record of accused



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15	Exhibit P-14	Check list under section 35(1)(a) BNSS
16	Exhibit P-15	General diary details dated 14.12.2025
17	Exhibit P-16	General diary details dated 14.12.2025
18	Exhibit P-17	General diary details dated 14.12.2025
19	Exhibit P-18	Original malkhana register entry
20	Exhibit P-18A	Certified copy of malkhana register
21	Exhibit P-19	Certificate under section 63(4)(c) of BSA regarding audio video recording of crime scene/site map dated 01.12.2025
22	Exhibit P-20	Certificate under section 63(4)(c) of BSA regarding audio video recording of seizure and recovery of motorcycle dated 14.12.2025
23	Exhibit P-21	Information of seizure and recovery of motorcycle and audio video recording through E-Sakshay App under section 105 BNSS alongwith the certificate generated thereof under section 63(4)(c) BSA to the magistrate by SHO, P.S.- Paniyala

JUDGEMENT

DATE- 24.12.2025

1. This judgement shall decide the chargeheet filed against the accused Billu @ Satyavir under section 303(2) in FIR No.327/25 P.S. Paniyala.
2. Brief facts of the case are that the complainant Khayaliram filed a Tehriri on 23.11.2025 before SHO, P.S. Paniyala that he has a *Punjab wali* (punjab made) boring machine on which one Billu S/o Rangrav Yadav R/o Lambi Ahir, P.S. Pacheri Kalan, District Jhunjhunu used to work for some 3 to 2 1/2 months. On 19.09.2025, the complainant brought the tractor alongwith the tanker from Nangal Chaudhary when accused Billu took his motorcycle No. RJ32 SF 3519 without his consent from Goneda Puliya. When the complainant enquired about his motorcycle from Billu he denied taking his motorcycle. On this report, FIR No. 327/25 was registered in P.S. Paniyala under section 303(2) BNS.
3. After filing of FIR, investigation was undertaken and after investigation chargesheet No.1/2025 under section 303(2) BNS was filed before this court on 19.12.2025 and copy of the chargesheet alongwith requisite documents was supplied to the accused/counsel for the accused.
4. Upon filing of chargesheet, this court, after hearing arguments, found that a *prima facie* case was made out against the accused from the chargesheet and other material



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on record under section 303(2) BNS and took cognisance of the offence under said section and criminal regular case was ordered to be registered.

5. Arguments on charge were heard. After hearing the arguments, based on the material on record and the chargesheet, charge under section 303(2) BNS was levied on the accused. The contents of the charge were explained to the accused. After understanding the contents of the charge, the accused denied the allegations and sought trial.
6. During the course of trial, the learned APO has examined complainant Khayaliram as PW-1, I.O. Devender PW-2 and Mahesh as PW-3 in oral evidence.
7. In documentary evidence, the prosecution has produced *Tehriri* report exhibit P-1/PW-1, site map of the place of occurrence exhibit P-2/PW-1, Arrest Memo of accused exhibit P-3/PW-1, Seizure memo of motorcycle No. RJ32 SF 3519 exhibit P-4/PW-1, Copy of seizure memo of motorcycle No. RJ32 SF 3519 received in court exhibit P-4A/PW-1, site map of the place of recovery/seizure of motorcycle exhibit P-5/PW-1, Panchnama of motorcycle No. RJ32 SF 3519 exhibit P-6/PW-1, photographs of motorcycle No. RJ32 SF 3519 exhibit P-7/PW-1 to P-10/PW-1, original FIR No.327/25 exhibit P-11/PW-2, statement of accused under section 23(2) BSA exhibit P-12/PW-2, requisition to obtain criminal record of accused exhibit P-13/PW-2, check list under section 35(1)(a) BNSS exhibit P-14/PW-2, General Diary Details dated 14.12.2025 exhibit P-15/PW-2 to P-17/PW-2, Original Malkhana Register entry exhibit P-18/PW-2, certified copy of Malkhana Register exhibit P-18A/PW-2, Certificate under section 63(4)(c) BSA regarding audio video recording of crime scene/site map dated 01.12.2025 exhibit P-19/PW-2, Certificate under section 63(4)(c) BSA regarding audio video recording of seizure and recovery of motorcycle dated 14.12.2025 exhibit P-20/PW-2 and information of seizure and recovery of motorcycle and audio video recording through e-sakshay app under section 105 BNSS alongwith the certificate generated thereof under section 63(4)(c) BSA to the Magistrate by SHO P.S. Paniyala exhibit P-21/PW-2 and P-20A/PW-2, respectively.
8. After completion of prosecution evidence, the accused was examined under section 351 BNSS wherein the accused has stated that the witness have wrongly stated



against him. He is innocent. the complainant owed him money and when he asked for the same, the complainant filed this false case of theft against him. He has refused to adduce any evidence in his defence.

9. Final arguments on behalf of the prosecution and the accused were heard carefully.

10. During the course of arguments, the learned APO has argued that in this case the prosecution was required to prove three points viz., that the motorcycle No. RJ32 SF 3519 belongs to the complainant; the said motorcycle was stolen by the accused without the consent of the complainant; and that the stolen motorcycle was actually recovered from the accused. According to the learned APO, the prosecution has successfully proved the above mentioned points beyond reasonable doubt from oral and documentary evidence. Secondly, it has been argued on behalf of prosecution that as far as the delay in filing the FIR is concerned, same has been properly and reasonably explained by the complainant Khayaliram PW-1 in his evidence as well as through statement under section 180 BNS. It has also been contended that it is the quality of evidence and not the quantity of evidence that is essential to prove a case beyond reasonable doubt. In conclusion, it has been prayed to convict and punish the accused accordingly for the charge of theft under section 303(2) BNS.

Learned APO has relied on following precedents:-

1. Uttar Pradesh State v. Krishan Mastar and other (2010) 12 SCC Page 324
2. Govind Raju @ Govind v. State and other SCC (2012) 4 SC Page 722
3. Laxmibai v. Bhagwant bau CA No 2058 of 2003.

11. On the other hand, learned counsel for the accused has argued before this court that the prosecution has failed to prove the charge under section 303(2) BNS against the accused beyond reasonable doubt. He has contended that to prove the offence of theft, it was essential for the prosecution to prove as to how did the stolen motorcycle reach the spot from where it was stolen, i.e. Goneda Puliya. in this case. It has also been argued that there was master-servant relationship between the complainant and the accused used to take the motorcycle of the complainant usually in ordinary course of things. In reality there was some monetary dispute between the complainant and the accused which turned sour and the complainant lodged this false FIR against the accused for theft. Learned advocate has also argued before the court that the recovery effected from the accused has also not been proved by the



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prosecution. There is no independent witness except complainant. In light of the aforementioned arguments, it has been prayed by the learned counsel on behalf of the accused, that the accused be acquitted for the charge of theft.

12. The court has carefully perused the case file in light of the arguments advanced by both the parties.

13. The main point of consideration in this case is as follows:-

Whether on 19.09.2025 around sometime, the accused stole motorcycle No.RJ32 SF 3519 of the complainant Khayaliram from Goneda Puliya with dishonest intention without his consent?

If yes, then what should be the quantum of punishment?

APPRECIATION OF EVIDENCE

14. In order to bring home the charge against the accused, the prosecution has adduced as many as 3 witness, namely, complainant Khayaliram PW-1, Investigating Officer Devender PW-2, and Mahesh PW-3 who is a witness of seizure memo exhibit P-4/PW-1.

15. The complainant, PW-1, in his examination on oath has proved the Tehrir and FIR exhibit P-1/ PW-1 and P-11/ PW-1 before the court. He has stated that he has a boring machine and he had engaged Billu S/o Rangrav to work on the boring machine. On 19.09.2025, he had parked his motorcycle Hero Honda Splendour Plus No. No.RJ32 SF 3519 at Goneda Puliya and when he was going from Goneda Puliya to Paniyala on his tractor(with boring machine), the accused Billu @ Satyavir took his motorcycle without his consent. He called him on his phone, but he did not receive complainant's call. Later, when he received complainant's call, he told him that he has not taken his motorcycle. After 2-4 days, complainant's operator told him that Billu @ Satyavir has taken his motorcycle and it is with him only. He kept making efforts to get his motorcycle back but the accused kept refusing to the complainant that he had not taken his motorcycle. Billu @ Satyavir told the said operator that he will not return complainant's motorcycle. When after two months, accused Billu @ Satyavir finally refused to return complainant's motorcycle, he lodged the report and



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FIR on 23.11.2025 Exhibit P-1/PW-1 and P-11/PW-2 which bears his signature. He has also stated that police arrested Billu @ Satyavir in this case vide arrest memo P-3/PW-1. Police also recovered and seized his motorcycle near P.S. Pacheri Kalan from Billu @ Satyavir vide seizure memo Exhibit P-4/PW-1 and a site map of the place of recovery was also drawn which is Exhibit P-5/PW-1. Exhibit P-3/PW-1, P-4/PW-1 and P-5/PW-1, all bear his signature at point A to B. Thereafter, he got the said motorcycle released vide court order after preparation of Panchnama and Photography of the motorcycle which is Exhibit as P-6/PW-1, P-7/PW-1, P-8/PW-1, P-9/PW-1, P-10/PW-1, respectively. In his cross examination, he has stated that Billu @ Satyavir worked for him for around 3 months who used to work at ₹600/- per day wages which tantamounted to ₹54000/. He has denied the suggestion that he owed any due to Billu @ Satyavir. He has also denied the suggestion that he had paid only ₹49000/- instead of ₹54000/- to Billu @ Satyavir. He has admitted that he used to give his motorcycle to Billu@ Satyavir for work related purposes. But he has denied the suggestion that he had himself given the motorcycle to the accused on the date of offence. He has reiterated in his cross examination that he did not lodge any report for theft because he was convinced that Billu@ Satyavir will return the motorcycle but he did not do so. Further stated that his operator Amar Singh had told him that that Billu @ Satyavir had taken complainant's motorcycle. Amar Singh is the resident of Village Lambi Ahir. Amar Singh had assured him that he will bring his motorcycle back from Billu@ Satyavir. Billu@ Satyavir and Amar Singh belong from the same village. He has also stated that Billu@ Satyavir and motorcycle, both were present before P.S. Pacheri Kalan. He does not know from where did the police bring Billu@ Satyavir alongwith the motorcycle. He was present at P.S. Pacheri Kalan and police personnel were also present. Lastly he has denied the suggestion that the accused had taken his motorcycle with his consent. He has also denied the suggestion that he owed wages to the accused and when he did not pay his dues to the accused, the accused refused to return his motorcycle and due to this reason, he filed this FIR against the accused.

16. PW-2 Devender is the Investigating officer who has exhibited the documents executed by him during investigation. He has stated that he had prepared the site map



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Exhibit P-2/PW-1 and also recorded statements of witnesses under section 180 BNS. He arrested accused Billu @ Satyavir vide P-3/PW-1, after complying with all legal requirements, which bear his and witnesses signature. In furtherance of statement under section 23(2) BSA, Exhibit P-12/PW-2, the accused got recovered the stolen motorcycle in this case vide Exhibit P-4/PW-1 in front of P.S. Pacheri Kalan. Site map of the place of recovery was prepared by him which is Exhibit P-5/PW-1. He has stated they had detained the accused Billu@ Satyavir and the motorcycle from Rao Ghisaram School. After making due entry in the GDR of the concerned P.S. Singhana (Exhibit P-15/PW-2 to Exhibit P-17/PW-2), they had brought the accused to the nearest P.S. Pacheri Kalan because over crowding at Rao Ghisaram School, was causing obstruction in conducting e-sakshay proceedings. In his cross examination he has stated that it is not possible to edit the audio video once it has been uploaded on e-sakshay and certificate under section 63(4) BSA is generated with distinct hash value and SID.

17. PW-3 Mahesh has also proved the seizure and recovery proceedings before the court during examination.
18. The main piece of evidence in this case is the recovery that has been affected from the accused. The witnesses of the recovery exhibit P4, PW1 and PW3 have duly proved the recovery proceedings. In this case, the IO PW2 in his examination has successfully proved seizure of motorcycle number RJ 35SF3159 from the accused through e sakshay.

Section 105 BNSS states that :-

"The process of conducting search of a place or taking possession of any property, article or thing under this Chapter or under section 185, including preparation of the list of all things seized in the course of such search and seizure and signing of such list by witnesses, shall be recorded through any audio-video electronic means preferably mobile phone and the police officer shall without delay forward such recording to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of the first class."



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In compliance of section 105 BNSS, information regarding seizure of motorcycle along with audio video recording through e sakshay and certificate under section 63(4) BSA has been duly supplied to this court, which is exhibit P 20 A and exhibit P 21. The audio video recording of the seizure of motorcycle belonging to the complainant was played in the court during trial in the presence of the accused and his advocate after verifying the particulars regarding SID, hash value and latitude and longitude of the place of seizure. A quick entry of the latitude and longitude in Google maps verify the place of seizure as being in front of PS Pacheri Kalan, as already indicated in the site map of recovery.

The learned advocate for the accused has argued that the IO in his statement has stated that the accused and the motorcycle were detained from Rao Ghisaram school, but the place of recovery is different, which has vitiated the recovery proceedings. The court does not agree with the argument because the IO has in his statement categorically explained that after detaining the accused and motorcycle from Rao Ghisaram School, he made requisite entries in the general diary of concerned, P.S. Singhana and brought him to the nearest P.S. Pacheri Kala because it was not possible to conduct E-Sakshay proceedings at the school as it was crowded. The general diary details are exhibit P 15 to P 17. In view of the above, the court finds no discrepancy in the recovery of motorcycle done from the accused. It has also been argued on behalf of the accused that there is no independent witness to the seizure and recovery, which casts doubt on the recovery/seizure. The Hon'ble Apex Court in **Pramod Kumar v. State of Govt. of NCT of Delhi AIR 2013 SUPREME COURT 3344** has held that:-

"there is no absolute command of law that the police officers cannot be cited as witnesses and their testimony should always be treated with suspicion. Ordinarily, the public at large show their disinclination to come forward to become witnesses. If the testimony of the police officer is found to be reliable and trustworthy, the court can definitely act upon the same. If, in the course of scrutinising the evidence, the court finds the evidence of the police officer as unreli-



able and untrustworthy, the court may disbelieve him but it should not do so solely on the presumption that a witness from the department of police should be viewed with distrust. This is also based on the principle that quality of the evidence weighs over the quantity of evidence."

This view has also been held by Hon'ble Supreme Court in **State of U.P. v. Anil Singh 1988 AIR 1998** wherein it has observed that :-

"The public are generally reluctant to come forward to de- pose before the Court. It is, therefore, not correct to reject the prosecution version only on the ground that all wit- nesses to the occurrence have not been examined. Nor it is proper to reject the case for want of corroboration by inde- pendent witnesses if the case made out is otherwise true and acceptable."

19. There is nothing on record to show that the police personnel acted malignantly or that recovery of from the accused motorcycle was planted. Mere requirement for in- dependent witnesses is not a sine qua non to prove the recovery in light of the law laid down as explained above by the Hon'ble Supreme Court. It was the intention of the legislature at the time of passing the Bharatiye Sakshay Adhiniyam to provide trustworthiness, impart confidence, avoid tampering of evidence, that the provisions for e sakshay were added in the new law for evidence. In light of the above discus- sion, the court does not find force in the contention of the advocate for accused that the absence of independent witnesses has made the recovery and seizure of stolen motorcycle of the complainant from the accused untrust worthy, especially when the entire proceeding was recorded in audio video format and its authenticity has also been verified by the court.
20. On behalf of accused, it has also been argued that the complainant in his statement before the court has stated that his operator Amar Singh informed him that Billu @ Satyavir has taken his motorcycle, and the complainant was also assured by Amar



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Singh that he will get his motorcycle back from Satyavir. It is the argument of the counsel for accused that it was essential for the prosecution to produce Amar Singh as witness before the court and the failure to do so is fatal to the case of the prosecution. Hon'ble Supreme Court in **Takhaji Hiraji v. Thakore Kubersing Chamansing** (2001) 6 SCC 145 has held that :-

"...it is true that if a material witness, who would unfold the genesis of the incident or an essential part of the prosecution case, not convincingly brought to fore otherwise, or where there is a gap or infirmity in the prosecution case which could have been supplied or made good by examining a witness who though available is not examined, the prosecution case can be termed as suffering from a deficiency and withholding of such a material witness would oblige the court to draw an adverse inference against the prosecution by holding that if the witness would have been examined it would not have supported the prosecution case. On the other hand if already overwhelming evidence is available and examination of other witnesses would only be a repetition or duplication of the evidence already adduced, non-examination of such other witnesses may not be material. In such a case the court ought to scrutinise the worth of the evidence adduced. The Court should pose the question whether in the facts and circumstances of the case, it was necessary to examine such other witness, and if so, whether such witness was available to be examine and yet was being withheld from the court. If the answer be positive then only a question of drawing an adverse inference may arise. If the witnesses already examined are reliable and the testimony coming from their mouth is unimpeachable the court can safely act upon it, uninfluenced by the factum of non-examination of other witnesses."



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21. In this case, the complainant has categorically stated in his examination on oath before this court stated that his operator told him that Billu @ Satyavir had taken his motorcycle No. RJ 32SF3519. When the complainant called Billu, he did not receive his call and later denied that he had taken his motorcycle. Amar Singh had assured complainant that he will get his motorcycle back from the accused, but when the accused did not return his motorcycle, he was constrained to file the FIR for theft of his motorcycle. After filing of FIR, the recovery of stolen motorcycle of the complainant was made from the accused which is proved, in this case as discussed above. That the motorcycle remained with the accused throughout the period and was ultimately recovered from the accused itself, clearly proves the guilt of the accused, even in the absence of non-examination of the said operator, Amar Singh which is sufficient to prove the charge for theft against him. Therefore, court finds no weight in the said argument of the advocate for accused.

22. There is also the fact of delay in filing of FIR in the instant case. In Exhibit P-1/PW-1, the complainant has stated that on 19.09.2025 the accused, Billu stole his motorcycle No. RJ 32SF3519 from Goneda Puliya and refused to return it to him. The said Tehrir exhibit P-1/PW-1 is dated 23.11.2025. Accordingly, there is a delay of around two months in filing of FIR. Hon'ble Supreme Court in **Thulia Kali v. The State of Tamil Nadu; 1972 (3) SCC 393** has observed that:-

"FIR is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced during the course of the trial. The object of insisting upon prompt lodging of the report to the police in respect of the commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of actual culprits and the part played by them as well as names of the eye witnesses present at the scene of occurrence."

When can the delay in filing the FIR be said to be fatal to the prosecution or not has been explained by the Hon'ble Supreme Court in **Hariprasad Kisan Sahu v State of Chattisgarh 2023 INSC 986** has held that :-

"...the delay in lodging an FIR by itself cannot be regarded as the sufficient ground to draw an adverse inference against the prosecution case,



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nor could it be treated as fatal to the case of prosecution. The Court has to ascertain the causes for the delay, having regard to the facts and circumstances of the case. If the causes are not attributable to any effort to concoct a version, mere delay by itself would not be fatal to the case of prosecution."

In **Tara Singh v. State of Punjab 1991 Supp (1) SCC 536** it has been observed having regarding to the Indian conditions that :-

"4. It is well settled that the delay in giving the FIR by itself cannot be a ground to doubt the prosecution case. Knowing the Indian conditions as they are we cannot expect these villagers to rush to the police station immediately after the occurrence."

In **Ravinder Kumar v. State of Punjab 2001 (7) SCC 690**, it has been held that:—

"The attack on prosecution cases on the ground of delay in lodging FIR has almost bogged down as a stereotyped redundancy in criminal cases. It is a recurring feature in most of the criminal cases that there would be some delay in furnishing the first information to the police. It has to be remembered that law has not fixed any time for lodging the FIR. Hence a delayed FIR is not illegal. Of course a prompt and immediate lodging of the FIR is the ideal as that would give the prosecution a twin advantage. First is that it affords commencement of the investigation without any time lapse. Second is that it expels the opportunity for any possible concoction of a false version. Barring these two plus points for a promptly lodged FIR the demerits of the delayed FIR cannot operate as fatal to any prosecution case. It cannot be overlooked that even a promptly lodged FIR is not an unreserved guarantee for the genuineness of the version incorporated therein."

Further held that :-

"When there is criticism on the ground that FIR in a case was delayed the court has to look at the reason why there was such a delay. There can be a



variety of genuine causes for FIR lodgment to get delayed. Rural people might be ignorant of the need for informing the police of a crime without any lapse of time. This kind of unconvincingness is not too uncommon among urban people also. They might not immediately think of going to the police station."

23. In light of the above mentioned principles, the complainant has well explained in his examination during the trial that he was convinced that the accused Billu @ Satyavir will return his motorcycle, but when after repeated efforts the accused refused to return his motorcycle, the present FIR was filed by the complainant. Similar statement has also been made by him in his statement under section 180 B NSS. Therefore, though there is delay in filing of the FIR, the delay has been explained by the complainant in his examination on oath although the reason of delay in filing FIR is not mentioned in the FIR. It is well settled that the FIR is not required to contain all the details in respect of the offence. Reliance is placed on **CBI v. Tapan Kumar Singh 2003 6 SCC 175** wherein regarding the requirements for the contents of FIR, it has been held :-

"It is well settled that a First Information Report is not an encyclopedia, which must disclose all facts and details relating to the offence reported. An informant may lodge a report about the commission of an offence though he may not know the name of the victim or his assailant. He may not even know how the occurrence took place. A first informant need not necessarily be an eye witness so as to be able to disclose in great details all aspects of the offence committed. What is of significance is that the information given must disclose the commission of a cognizable offence and the information so lodged must provide a basis for the police officer to suspect the commission of a cognizable offence."

24. Learned Advocate for the accused has tried to suggest that, actually, there was a dispute regarding payment of wages that were due to the accused from the complainant. When the accused asked the complainant to clear his dues, this false FIR



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for theft was filed against him. The complainant in his evidence has stated that he had paid ₹ 37,000/-, out of the total amount of ₹ 54,000/- that was due to the accused, to the person who had got accused work assigned on the boring machine of the complainant. He had paid the said amount to the said person on the request of the accused. He has also stated that the entire amount was paid to the accused, and there was no money due to be paid. In the cross-examination, the learned advocate for the accused has suggested that Billu @ Satyavir had taken the motorcycle of the complainant with his consent. He has also suggested that because the complainant did not pay due wages to the accused, the accused refuse to return his motorcycle and ultimately the complainant lodged this FIR against accused. All of which has been denied by the complainant. In other words, it has been admitted, on behalf of the accused, that the accused took the motorcycle of the complainant, and when the complainant did not pay due payment of wages to the accused, he deliberately refused to return the motorcycle, which was in his possession. This fact has been corroborated by the factum of recovery of stolen motorcycle from the accused on 14.12.25.

APPRECIATION OF ELECTRONIC EVIDENCE

25. This case is a fit case where the availability and production of electronic evidence has supported the prosecution in proving the recovery from the accused beyond reasonable doubt. With the advent of artificial intelligence and technology taking over our lives, the electronic evidence has assumed greater importance in investigations and also trials before the court. At this stage, it is trite to glance at the various relevant provisions relating to electronic evidence.

26. The section 63 of BSA makes electronic record admissible. The provision reads as follows :-

"(1) Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or any communication device or otherwise stored, recorded or copied in



any electronic form (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely:---

- (a) the computer output containing the information was produced by the computer or communication device during the period over which the computer or Communication device was used regularly to create, store or process information for the purposes of any activity regularly carried on over that period by the person having lawful control over the use of the computer or communication device;
- (b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer or Communication device in the ordinary course of the said activities;
- (c) throughout the material part of the said period, the computer or communication device was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and
- (d) the information contained in the electronic record reproduces or is derived from such information fed into the computer or Communication device in the ordinary course of the said activities.



(3) Where over any period, the function of creating, storing or processing information for the purposes of any activity regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by means of one or more computers or communication device, whether--

- (a) in standalone mode; or
- (b) on a computer system; or
- (c) on a computer network; or
- (d) on a computer resource enabling information creation or providing information processing and storage; or
- (e) through an intermediary,

All the computers or communication devices used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer or communication device; and references in this section to a computer or communication device shall be construed accordingly.

(4) In any proceeding where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things shall be submitted along with the electronic record at each instance where it is being submitted for admission, namely:--

- (a) identifying the electronic record containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer or a communication device referred to in clauses (a) to (e) of sub-section (3);
- (c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person in charge of the computer or communication device or the management of the relevant activities (whichever is appropriate)



and an expert shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it in the certificate specified in the Schedule.

(5) For the purposes of this section,---

- (a) information shall be taken to be supplied to a computer or communication device if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;
- (b) a computer output shall be taken to have been produced by a computer or communication device whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment or by other electronic means as referred to in clauses (a) to (e) of sub-section (3)."

27. The section makes admissible the electronic record when any statement is required to be given in evidence by any witness in respect thereof provided a certificate under section 63(4)(c) BSA is furnished alongwith the said record.

28. What is an "electronic record" is defined under Section 2(t) of the Information Technology Act, 2000 which means :-

"data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche."

29. The word "data" is defined in Section 2(o) of the Information Technology Act as "a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer."



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30. Under section 2 of Bharatiya Sakshya Adhiniyam, 2023 a "document" means "any matter expressed or described or otherwise recorded upon any substance by means of letters, figures or marks or any other means or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter and includes electronic and digital records."

And "Evidence" as defined under section 2(e) of Bharatiya Sakshya Adhiniyam, 2023 includes all statements including statements given electronically which the Court permits or requires to be made before it by witnesses in relation to matters of fact under inquiry and such statements are called oral evidence; and all documents including electronic or digital records produced for the inspection of the Court and such documents are called documentary evidence.

E-Sakshay Application

31. The e- Sakshay application designed by NIC, has been designed for the investigating officers to record photos and videos of the crime scene, seizure etc as mandated by the Bhartiye Sakshaya Adhiniyam, 2023 and the Bhartiye Nagrik Suraksha Sanhita, 2023. As per the information available on the government portal informatics.nic.in, the app allows police officers to record the scene of a crime, including search and seizure activities, directly from their mobile phones. Each recording can last up to four minutes, and multiple recordings can be uploaded for each First Information Report (FIR). Officers must upload these files to a cloud-based platform along with a selfie for authenticity. In case of connectivity issues, recordings can be made on personal devices and uploaded later.

According to the information available on the on the official website of Bureau of Police Research and Development, under the aegis of Ministry of Home Affairs, Government of India the application is aimed at making and enabling tamper proof, court admissible recordings, replacing manual processes with efficient digital workflows. By standardising evidence collection and maintaining integrity, the E-Sakshay application is aimed at strengthening investigations and judicial outcomes while simplifying the task for investigating officers and meeting mandates for transparency and scientific rigour in Bhartiya Nagrik Suraksha Sahita 2023.



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32. In **Anvar P.V vs P.K.Basheer & Ors.** AIR 2015 SUPREME COURT 180 while emphasising on the need for certificate under section 65B Indian Evidence Act of 1872, the Hon'ble Supreme Court had observed that :-

"..such a certificate must accompany the electronic record like computer print-out, Compact Disc (CD), Video Compact Disc (VCD), pen drive, etc., pertaining to which a statement is sought to be given in evidence, when the same is produced in evidence. All these safeguards are taken to ensure the source and authenticity, which are the two hallmarks pertaining to electronic record sought to be used as evidence. Electronic records being more susceptible to tampering, alteration, transposition, excision, etc. without such safeguards, the whole trial based on proof of electronic records can lead to travesty of justice."

33. In order to circumvent the situation of tampering, alteration, transposition or excision/deletion where electronic record that is sought to be made admissible in evidence, above provisions have been added in the Bhartiye Sakshaya Adhiniyam and the Bhartiye Nagrik Suraksha Sanhita, 2023.

34. Coming to the facts of this case, the certificate under Section 63(4)(c) BSA of the preparation of site map of the place of occurrence and the seizure of motorcycle Exhibit P-19 and P-20 ha been duly produced by the investigating officer containing the unique hash value, SID (Sakshay ID) and the longitude and latitude which has been verified by the court during the recording of statement of IO Devender PW-2 in the presence of the advocate for the accused.

35. Taking into consideration all the evidences on record produced by the prosecution during trial, the appreciation of evidence in light of the law laid down by the Hon'ble Supreme Court, the court is of the considered opinion that the prosecution has successfully proved beyond reasonable doubt that 19.09.2025 around sometime, the accused stole motorcycle No.RJ32 SF 3519 of the complainant Khayaliram from Goneda Puliya with dishonest intention without his consent. Accordingly, the accused Satyavir@ Billu S/o Rangrav R/o Pacheri Kalan, District Jhunjhunu, Rajasthan is liable to be convicted for the charge under section 303(2) BNS.



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ORDER

36. Consequently accused Satyavir@ Billu S/o Rangrav R/o Pacheri Kalan, District Jhunjhunu, Rajasthan is convicted for the offence under section 303(2) BNS.

Simran Kaur
Additional Chief Judicial Magistrate,
No.-1, Kotputli, Dist.- Kotputli Behror

ORDER ON SENTENCE

37. The court has heard both the parties on the question of sentence. Learned APO has contended before this court that the accused is convicted of the offence under section 303(2)BNS. Therefore, he should be punished accordingly. On the other hand, the learned counsel for the accused has contended that this is his first offence. He has no previous record. Therefore, it has been prayed to grant him the benefit of probation under the Probation of Offenders Act, 1958.

38. The court has carefully considered the arguments advanced on behalf of both the parties. The court has, also, carefully perused the case file in light of the arguments advanced. In the present day and time, the offence of theft has become a rising menace to the society. Instances of theft during broad day light have created a sense of insecurity in the society towards their belongings, loss of economic stability and erosion of trust amongst each other. In this case, the accused Satyavir @ Billu was known to the complainant. He used to work for the complainant on his boring machine. And yet he has committed the offence of theft against the complainant in respect of his motorcycle. The court is not inclined to grant the benefit of probation to the accused/convicted. In view of the above and the facts and circumstances of the case, the court deems it fit to sentence the accused as under :-

39. Accused Satyavir@ Billu S/o Rangrav R/o Pacheri Kalan, District Jhunjhunu, Rajasthan having been convicted for the offence under section 303(2) BNS is sentenced to undergo simple imprisonment for 2 years and fine of ₹5000/- (Rupees



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Five thousand only), in default of payment of fine, the convicted shall undergo further simple imprisonment of one month.

40. The period of detention/custody undergone during trial shall be set off against the sentence of imprisonment imposed on the convict. Warrant for sentence be prepared accordingly.

41. The seized motorcycle No. RJ 32SF3519 has been released to the complainant on supurdginama and surety bonds. The same shall automatically stand cancelled after the expiry of the period of limitation for appeal against this order/judgment.

42. Bonds and sureties in the amount of ₹10,000/- under section 481 BNS have been furnished by the convicted in compliance of the order of the court which have been duly verified by the court. File be consigned to record room after due compliance as per rules.

43. A copy of this judgment be supplied to the accused free of cost.

Simran Kaur
Additional Chief Judicial Magistrate,
No.-1, Kotputli, Dist.- Kotputli Behror

44. Judgment pronounced in open court today on date 24.12.2025 after affixing signature.

Simran Kaur
Additional Chief Judicial Magistrate,
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