



CNR: KAHC010402872026

NC: 2026:KHC:45602
CRL.RP No. 969 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL REVISION PETITION NO.969 OF 2026

BETWEEN:

K SHARATH
AGED ABOUT 37 YEARS
S/O KRISHNA
RESIDING AT LOHITH RENT HOUSE
GARAGANDURU VILLAGE AND POST
SOMAWARAPETE TALUK
KODAGU-571 251.

...PETITIONER

(BY SRI SANCHAN JAINANDAN, ADVOCATE)

AND:

STATE OF KARNATAKA
BY MADIKERI TOWN POLICE STATION
MADIKERI, KODAGU
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001.

...RESPONDENT

(BY SRI G. S. NAGHARISH, H.C.G.P.)

* * *

Digitally
signed by
NAGHARISHA
M
Location: High
Court of
Karnataka



CNR: KAHC010402872026

NC: 2026:KHC:45602
CRL.RP No. 969 of 2026

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 READ WITH SECTION 401 THE CODE OF CRIMINAL PROCEDURE, 1973, PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER ON SENTENCE DATED 22.11.2023 IN CRIMINAL CASE NO.156 OF 2023 PASSED BY THE COURT OF THE SENIOR CIVIL JUDGE AND CHIEF JUDICIAL MAGISTRATE, KODAGU-MADIKERI, AND THE JUDGMENT AND ORDER DATED 27.02.2026 IN CRIMINAL APPEAL NO.118 OF 2023 PASSED BY THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, KODAGU-MADIKERI.

THIS CRIMINAL REVISION PETITION IS COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL ORDER

Heard Sri Sanchan Jainandan, learned counsel for the petitioner, and Sri G.S. Nagharish, learned High Court Government Pleader for the respondent-State.

2. The petitioner has filed this revision petition under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, praying to set aside the judgment of conviction and order on sentence dated 22-11-2023 passed by the Senior Civil Judge and Chief Judicial Magistrate, Kodagu-Madikeri, in Criminal Case No.156 of



2023 and confirmed by the I Additional District and Sessions Judge, Kodagu-Madikeri, in Criminal Appeal No.118 of 2023 dated 27-2-2026.

3. For the sake of convenience, the parties are referred to as per their rankings before the trial Court. The petitioner is accused No.2 and the respondent is the complainant-State.

4. The brief facts of the prosecution case are that during the night hours on 26-9-2017 within the jurisdiction of Madikeri Town Police Station, near Rifle Range of Madikeri Town, when the complainant was out of town, accused No.1 and other accused with the help of iron rod broke open the front door lock of the house of the complainant and trespassed into the house. In furtherance of the same, they broke open the lock of the almirah in the bedroom and committed theft of a Single Barrel Gun and gold ornaments of various descriptions totally valuing up to Rs.1,50,000/-. Thus, the complainant lodged a



CNR: KAHC010402872026

NC: 2026:KHC:45602
CRL.RP No. 969 of 2026

complaint. Thereafter, an First Information Report was registered in Crime No.134 of 2017 for the offences punishable under Sections 457 and 380 read with Section 34 of the Indian Penal Code, 1860 (for short, 'IPC'). The matter was investigated and the Investigating Officer filed charge-sheet against the petitioner and other accused persons.

5. The trial Court on taking cognizable of the offences, framed charge for the aforesaid offences. The petitioner pleaded not guilty and claimed to be tried.

6. The prosecution, in order to prove its case, examined in all eleven witnesses as PW1 and PW11 and got marked eighteen documents as per Exs.P1 to P18.

7. The trial Court, based on oral and documentary evidence on record, convicted the petitioner for the offences punishable under Sections 457 and 380 of IPC and sentenced him to undergo simple imprisonment for a



CNR: KAHC010402872026

NC: 2026:KHC:45602
CRL.RP No. 969 of 2026

period of five years and fine of Rs.10,000/- for the offence punishable under Section 457 of IPC and to undergo simple imprisonment for a period of five years and fine of Rs.10,000/- for the offence punishable under Section 380 of IPC with default imprisonment.

8. Being aggrieved by the judgment of conviction and order on sentence passed by the trial Court, the petitioner preferred Criminal Appeal No.118 of 2023 before the First Appellate Court and the First Appellate Court, on re-appreciating the evidence, confirmed the judgment passed by the trial Court. Hence, this revision petition.

9. Learned counsel for the revision petitioner-accused No.2 has vehemently contended that both the Courts have not properly appreciated the material evidence on record and only on the suspicion, the order of conviction came to be recorded by the trial Magistrate, which has been mechanically upheld by the learned Judge of the First Appellate Court resulting in miscarriage of



CNR: KAHC010402872026

justice and thus, sought for allowing of the revision petition.

10. Alternatively, the learned counsel for the revision petitioner submits that in the event of this Court upholding the order of conviction, taking note of the fact that the petitioner is a first time offender, the learned trial Judge failed to accord the benefit of the provisions of the Probation of Offenders Act, 1958, and unfortunately, the learned Judge of the First Appellate Court also failed to consider the same and therefore, this Court may call the necessary report and put the petitioner on probation by maintaining the fine amount.

11. *Per contra*, the learned High Court Government Pleader supports the impugned judgments. He further contended that PW1-complainant and PW6-owner of the Jewellery shop have categorically stated the role attributed by the petitioner. The Investigating Officer recovered the stolen articles from the house of the petitioner based on



CNR: KAHC010402872026

NC: 2026:KHC:45602
CRL.RP No. 969 of 2026

his voluntary statement and no explanation whatsoever is offered by the petitioner. He further contended that why would the Investigating Officer implant such a costly material objects only with an intention to falsely implicate the petitioner in the case especially in the absence of any previous enmity or animosity between the Investigating Officer and either the revision petitioner or another accused. He further contended that the seized material objects have been identified by the complainant before the trial Court and *pancha* witnesses have also supported the recovery and thus, sought for dismissal of the revision petition.

12. Having heard the arguments of both sides, this Court perused the material on record meticulously.

13. On such perusal of the material on record, it is evident that, on 27-9-2017, when the complainant was away from his town, Sri Bopanda Shyam, neighbour, telephoned him stating that the main door of his house



CNR: KAHC010402872026

**NC: 2026:KHC:45602
CRL.RP No. 969 of 2026**

was open and after arriving at his house on 28-9-2017, the complainant found that his house has been forcibly broke open and a Single Barrel Gun and gold ornaments totally valuing up to Rs.1,50,000/- were missing. Hence, he lodged the complaint as per Ex.P1.

14. The Police conducted thorough investigation, arrested the petitioner and recorded his voluntary statement and based on his voluntary statement, recovery of one Single Barrel Gun with live bullets was done in a rented house of the petitioner and gold ornaments were recovered in the shop of PW6. Absolutely, there is no explanation whatsoever forthcoming from the petitioner with regard to recovery.

15. Taking note of the fact that the complainant identified the stolen articles, which were seized from the custody of the petitioner, in a matter of this nature recovery of the stolen articles would complete the offence



CNR: KAHC010402872026

especially in the absence of any plausible or possible explanation from the petitioner-accused No.2.

16. Thus, the order of conviction recorded by the trial Court for the offences under Sections 457 and 380 of IPC needs no interference, which has been rightly confirmed by the First Appellate Court.

17. Further, this Court takes note of the alternate argument that has been put forth on behalf of the petitioner.

18. Taking note of the fact that the incident is of the year 2017 and that, at the relevant time, the petitioner-accused No.2 was aged 28 years, this Court is of the view that calling for a probation report at this distant point of time particularly in the exercise of revisional jurisdiction would only result in a futile exercise.

19. Learned counsel for the petitioner contended that the petitioner was in custody for a period of 45 days



during trial. Though the learned High Court Government Pleader in the trial Court has stated that the petitioner is an habitual offender, in the absence of any other criminal antecedents with necessary material on record, this Court is of the considered opinion that enhancing the fine amount in a sum of Rs.50,000/- and directing the custody already undergone by the petitioner as a period of imprisonment for the proved offences would meet the ends of justice in the peculiar facts and circumstances of the case on hand.

20. Further, out of the fine amount recovered, if a sum of Rs.45,000/- is ordered to be paid as compensation to the complainant would further serve the ends of justice.

21. Accordingly, the following:

ORDER

- i. Criminal revision petition is ***allowed-in-part***.



CNR: KAHC010402872026

- ii. While maintaining the conviction of the petitioner-accused No.2 for the offences under Sections 457 and 380 of the Indian Penal Code, 1860, custody already undergone by the petitioner is treated as a period of imprisonment by enhancing the fine amount in a sum of Rs.50,000/- (Rupees fifty thousand only), which is payable on or before 21-9-2026.
- iii. After recovery of the fine amount, a sum of Rs.45,000/- (Rupees forty-five thousand only) is ordered to be paid as compensation to the complainant, on proper identification and a balance sum of Rs.5,000/- (Rupees five thousand only) is to be appropriated towards the defraying expenses of the State.
- iv. Failure to pay the enhanced fine amount of Rs.50,000/- on or before 21-9-2026 would result in automatic restoration of the imprisonment ordered



NC: 2026:KHC:45602
CRL.RP No. 969 of 2026

CNR: KAHC010402872026

by the trial Court, which is confirmed by the First Appellate Court.

In view of the disposal of the revision petition, pending interlocutory application, if any, shall stand dismissed.

Registry is directed to return the trial Court records with a copy of this order, forthwith.

Sd/-
(VENKATESH NAIK T)
JUDGE

KVK
List no.: 1 Sl no.: 40