

Crl.RC.(MD)No.713 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON :30-04-2026

PRONOUNCED ON : 23.07.2026

CORAM:

THE HONOURABLE MR JUSTICE MOHAMMED SHAFFIQ

CRL RC(MD).No.713 of 2019

1.Chinnan
2.Chandran

... Petitioners

Vs.

The State through
the Inspector of Police,
Bodi Taluk Police Station,
Theni District,
Cr.No.339/2009.

... Respondent

PRAYER :- This Criminal Revision Case is filed under Section 397 and 401 of Criminal Procedure Code, to call for the records judgment in C.C.No.06/2011 on the file of the Assistant Sessions Court, Theni and confirmed the Judgment C.A.No.69/2017 on the file of the Additional District and Sessions Judge (Fast Track), Theni dated 18.01.2019 set aside the same and acquittal the accused for the offence punishable under Section 394 of Indian Penal Cose.

For Petitioner : Mr.R.M.Arun Swaminathan



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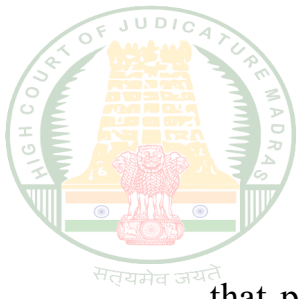
For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

The present Criminal Revision Case is filed challenging the order passed by Additional District and Sessions Judge (Fast Track), Theni, in C.A.No.69 of 2017 dated 18.01.2019, confirming the order passed by Assistant Sessions Judge, Theni in S.C.No.6 of 2011 dated 10.04.2017.

2.Brief facts:

2.1. It is the case of prosecution that on 11.10.2009 around 12.00 PM, defacto complainant and his wife, who were newly married after visiting P.W.2's paternal home, visited their relative's home for breakfast. While they were returning home, they were waylaid by A1 and A2/petitioners herein, A1 threatened P.W.2 with a knife while A2 snatched the chains, viz., thali chain and godhumai cutting chain from P.W.2.



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2.2 P.W.1, one of the defacto complainants, tried to resist and in

that process, was injured by petitioners herein. Ornaments robbed from P.W.2 is stated to weigh about 10 sovereigns of gold. On the basis of their complaint, an FIR came to be registered in Crime No.339 of 2009 for offence under Section 397 of IPC. Petitioners were arrested on 07.05.2010, i.e., almost 6 months after the date of occurrence by P.W.9, who apprehended petitioners in relation to Crime No.623 of 2010. It may be relevant to note that P.W.9 is an officer of Theni Police Station. During the course of enquiry/interrogation by P.W.9, petitioners herein had disclosed commission of the alleged offence and confessed that after having robbed P.W.1 and P.W.2 of the chains, had pledged the same with one Manikandan. Pursuant to the above confession statement, P.W.9 had taken the petitioners herein to Manikandan and recovered ornaments, viz., thali chain and godhumai cutting chain. Thereafter, petitioners were identified as one who had committed the act of robbery and also the jewellery was also identified by P.W.1 and P.W.2. It may also be relevant to note that there are no rival claimants with regard to jewellery/chains, which have been recovered. Thereafter, final report was filed by the



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respondent Police and trial commenced before the Assistant Sessions Court, Theni in S.C.No.6 of 2011.

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3. Trial Court convicted the petitioners herein for offence under Section 394 IPC and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.1000/- each , in default, to undergo two months rigorous imprisonment. Aggrieved, petitioners preferred appeal in C.A.No.69 of 2017 before Additional District and Sessions Judge (Fast Track), Theni, who confirmed the order of the Trial Court. It is against the above order, petitioners had preferred the present revision case.

4. Finding of the trial court:

a) The victims / Complainants had identified petitioners in court. A1 was not in court, thus identification of A1 was not possible.

b) Victims / Complainants were intimidated by petitioners, who attempted to murder the victims / complainant. The complainants while



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defending was injured and accident report marked as Exhibit P11 would also show that the complainant were injured.

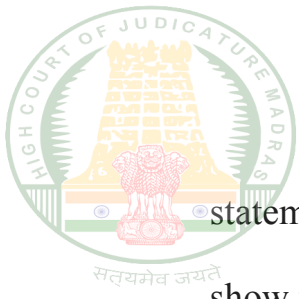
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c) Complainants visited the hospital around 4:30 p.m. for treatment stating that two known persons had attacked him, while defending was injured. Doctor had opined that the injuries may not have been caused while defending and it was possible that it was self-inflicted.

d) That there was a confession by the petitioners of handing over the stolen jewellery from victim / complainant to one Manigandan. Pursuant thereto, petitioners were taken to Manigandan and Manigandan was in fact identified by petitioners and stolen articles were recovered from the said Manigandan.

e) Allegation of motives behind the complaint was found to be baseless inasmuch as there was neither previous enmity between the petitioner and the complainant nor between the petitioner and the investigating officer.

f) Though Balu and Arivandandham had turned hostile that by itself would not detract the evidentiary value of other evidence including



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statement of injured witness, recovery of material objects which would show that the petitioners in fact had committed the alleged offense.

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5. On the strength on the strength of the above findings, the trial court arrived at a conclusion that the petitioners were guilty of the offense under section under Section 394 of IPC.

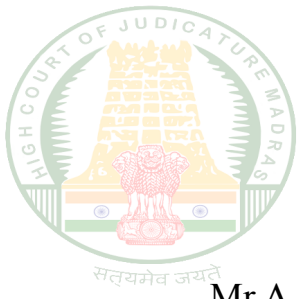
6. Case of petitioners:

Order of the Trial Court has been challenged primarily on three grounds, viz.,

a) That gold chains, which are alleged to have been robbed by petitioners have been recovered from Manikandan. He was not examined. Failure to examine Manikandan from whom the jewellery/chains were recovered would prove fatal.

b) That injuries have been indicated by the Doctor, who examined P.W.2, as having been self inflicted.

c) That ingredients of robbery have not been made out. Though the knife, which was allegedly used in commission of offence was recovered, there were no blood stains.



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7. To the contrary, learned Additional Public Prosecutor,

Mr.A.Thiruvadikumar would submit that this court may have to keep the following aspects in mind, namely,

a) Petitioners herein were apprehended by P.W.9, a police officer, who was attached to Theni Police Station and has nothing to do whatsoever with the alleged offence. On interrogation, there was a confession, which lead to recovery of material objects and therefore, that becomes relevant in terms of Section 27 of Evidence Act.

b) That possibility of self-infliction is only by way of suggestion and it is not conclusive statement / opinion by / of the Doctor.

c) That petitioners are habitual offenders as they are alleged to have been involved in more than one case and even before the doctor, P.W.1 and P.W.2 soon after they were injured, had indicated that they can identify the two offenders and as a matter of fact, also identified petitioners who committed the act of robbery.

d) If this Court keeps in view the evidence of P.W.1 and P.W.2, who are the victims and who have also identified the petitioners and also the material objects involved in the offence and also the fact that



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pursuant to the confession statement, jewellery, which P.W.1 and P.W.2 were robbed off, has been recovered, would conclusively show commission of offence by petitioners herein.

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7.1. Learned Additional Public Prosecutor would also submit that this is the case which may not warrant any leniency inasmuch as petitioners are habitual offenders.

8. Heard both sides. Perused materials on record.

9. The order of the Trial Court does not warrant any interference for the following reasons:

A) Recovery of stolen articles – pursuant to confession – Relevant:

9.1 That Section of 27 of the Evidence Act would get attracted to the statement made by petitioners insofar as it leads to discovery of facts. To appreciate the above contention, it may be relevant rather necessary to refer to Section 27 of the Evidence Act, which reads as under:



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“27. How much of information received from accused may be proved.—Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

9.2 From a reading of Section 27, it appears that the following conditions must be fulfilled for Section 27 to get attracted / invoked:

(i) There must be discovery of fact albeit relevant fact, in consequence of the information received from a person accused of an offence.

(ii) The discovery of such fact must be deposed to.

(iii) At the time of the receipt of the information the accused must be in police custody.

(iv) That only so much of the information as relates distinctly to the fact, thereby discovered is admissible.



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B) Scope of Section 27 of the Evidence Act:

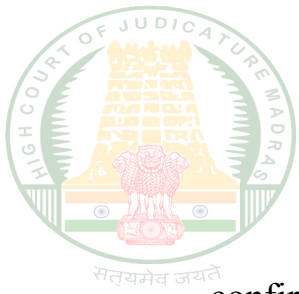
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a) While this Court is conscious that confessions in police custody may not be admissible, Section 27 of the Indian Evidence Act is founded on a principle that even though the evidence relating to the confessional or other statements made by a person while he is in the custody of a police officer, is tainted and therefore inadmissible, if the truth of the information given by him is assured by the discovery of a fact, it may be presumed to be untainted and is therefore declared provable in so far as it distinctly relates to the fact thereby discovered.

(b) The statement which is admissible under Section 27 is the one which is the information leading to discovery.

(c) It is now well settled that recovery of an object is not discovery of a fact envisaged in the section.

(d) The “fact discovered” envisaged in the section embraces the place from which the object was produced, the knowledge of the accused as to it, but the information given must relate distinctly to that effect.



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C) Section 27 represents loosely what is known as the doctrine of

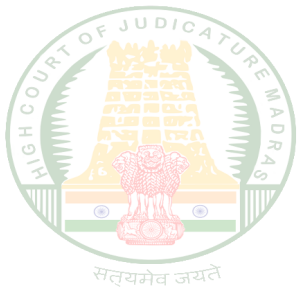
confirmation by subsequent fact. The rationale for admissibility of that part of statement which is subsequently by discovery of a material fact is that it must be reliable. In this regard, it may be relevant to refer the following judgments:

a) *Aftab Ahmad Anasari v. State of Uttaranchal*, (2010) 2 SCC 583 : (2010) 2 SCC (Cri) 1054 : 2010 SCC OnLine SC 158 at page 596

“40. Thus, the part of the disclosure statement, namely, that the appellant was ready to show the place where he had concealed the clothes of the deceased is clearly admissible under Section 27 of the Evidence Act because the same relates distinctly to the discovery of the clothes of the deceased from that very place. The contention that even if it is assumed for the sake of argument that the clothes of the deceased were recovered from the house of the sister of the appellant pursuant to the voluntary disclosure statement made by the appellant, the prosecution has failed to prove that the clothes so recovered belonged to the deceased and therefore, the recovery of the clothes should not be treated as an incriminating circumstance, is devoid of merits.”

b) *Bhagwan Dass v. State (NCT of Delhi)*, (2011) 6 SCC 396 :(2011) 2 SCC (Cri) 985 : 2011 SCC OnLine SC 755 at page 403

“24. The accused had given a statement (Ext. PW-7/A) to the SDM in the presence of PW 11, Inspector Nand Kumar which led to discovery of the electric wire by



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which the crime was committed. We are of the opinion that this disclosure was admissible as evidence under Section 27 of the Evidence Act, 1872 vide Aftab Ahmad Anasari v. State of Uttaranchal [(2010) 2 SCC 583 : (2010) 2 SCC (Cri) 1054] (para 40) and Manu Sharma v. State (NCT of Delhi) [(2010) 6 SCC 1 : (2010) 2 SCC (Cri) 1385] (SCC paras 234-38). In his evidence the Police Inspector Nand Kumar stated that at the pointing out of the accused the electric wire with which the accused is alleged to have strangled his daughter was recovered from under a bed in a room.”

c). *Boby v. State of Kerala*, (2023) 15 SCC 760 : 2023 SCC OnLine SC 50 at page 771

“31. It will also be relevant to refer to the following observations of this Court in State of Karnataka v. David Rozario [State of Karnataka v. David Rozario, (2002) 7 SCC 728 : 2002 SCC (Cri) 1852] : (SCC p. 733, para 5)

“5. ... This information which is otherwise admissible becomes inadmissible under Section 27 if the information did not come from a person in the custody of a police officer or did come from a person not in the custody of a police officer. The statement which is admissible under Section 27 is the one which is the information leading to discovery. Thus, what is admissible being the information, the same has to be proved and not the opinion formed on it by the police officer. In other words, the exact information given by the accused while in custody which led to recovery of the



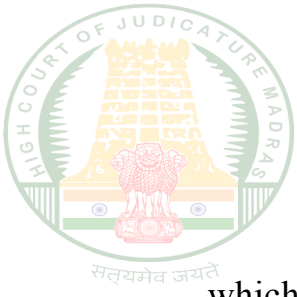
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articles has to be proved. It is, therefore, necessary for the benefit of both the accused and the prosecution that information given should be recorded and proved and if not so recorded, the exact information must be adduced through evidence. The basic idea embedded in Section 27 of the Evidence Act is the doctrine of confirmation by subsequent events. The doctrine is founded on the principle that if any fact is discovered as a search made on the strength of any information obtained from a prisoner, such a discovery is a guarantee that the information supplied by the prisoner is true. The information might be confessional or non-inculpatory in nature but if it results in discovery of a fact, it becomes a reliable information. It is now well settled that recovery of an object is not discovery of a fact envisaged in the section. Decision of the Privy Council in Pulukuri Kotayya v. King-Emperor [Pulukuri Kotayya v. King-Emperor, 1946 SCC OnLine PC 47 : (1946-47) 74 IA 65 : AIR 1947 PC 67] is the most-quoted authority for supporting the interpretation that the “fact discovered” envisaged in the section embraces the place from which the object was produced, the knowledge of the accused as to it, but the information given must relate distinctly to that effect. (See State of Maharashtra v. Damu [State of Maharashtra v. Damu, (2000) 6 SCC 269 : 2000 SCC (Cri) 1088] .)”(emphasis supplied)

The above view was also reiterated in ***Rumi Bora Dutta v. State of Assam*, (2013) 7 SCC 417.**



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10. Petitioners had in their confession *inter alia* stated jewellery

which were stolen by petitioners, after waylaying defacto complainant, was handed over to one Manigandan. Petitioners were taken to Manigandan. Petitioners identified Manigandan. Stolen jewellery from defacto complaint was recovered from Manigandan.

11. Applying the above law discussed supra with regard to Section 27 of the Evidence Act, to the facts on hand, though discovery of jewellery / object may not constitute discovery of facts for the purposes of Section 27, however, the statement / confession insofar as it reveals the following is relevant and admissible viz.,

a) knowledge of petitioners as to the place where the stolen jewellery was kept.

b) jewellery after being stolen / robbed was handed over to Manigandan.

12. Injured witness -Value – Credibility:-

P.W.1 and P.W.2 are victims. P.W.1 was injured during the



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commission of offence of robbery by petitioners. It is trite that evidence

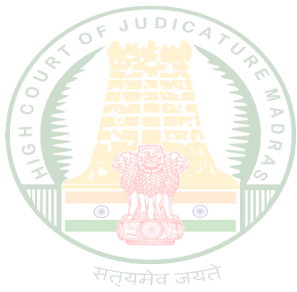
of the injured witness has greater evidentiary value and greater credence attached to it and ought not to be discarded lightly because normally he would not falsely implicate a person thereby protecting the actual assailant. In this regard, it may be relevant to refer the following judgments:

i). *Vijay Shankar Shinde v. State of Maharashtra*, (2008) 2 SCC 670 : (2008) 1 SCC (Cri) 535 : 2008 SCC OnLine SC 115 at page 672:

“9. The trial court was not justified in holding that because PW 11 was an injured witness he may have reason to falsely implicate the accused. However, as rightly observed by the trial court and the High Court, the evidence of PWs 12 and 13 does not suffer from any deficiency. PWs 11, 12 and 13 were cross-examined at length but nothing substantial could be elicited to destroy the credibility of their version. As a matter of fact, the evidence of injured person who is examined as a witness lends more credence, because normally he would not falsely implicate a person thereby protecting the actual assailant.”

ii) *State of M.P. v. Mansingh*, (2003) 10 SCC 414 : (2007) 2 SCC (Cri) 390 : 2003 SCC OnLine SC 847 at page 419:

“9. The evidence of injured witnesses has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly. Merely because



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there was no mention of a knife in the first information report, that does not wash away the effect of the evidence tendered by the injured witnesses PWs 4 and 7. Minor discrepancies do not corrode the credibility of an otherwise acceptable evidence. The circumstances highlighted by the High Court to attach vulnerability to the evidence of the injured witnesses are clearly inconsequential.....”¹

iii). Sadakat Kotwar v. State of Jharkhand, (2024) 17 SCC 331 : 2021 SCC OnLine SC 1046 at page 332:

3. As held by this Court in State of M.P. v. Mansingh [State of M.P. v. Mansingh, (2003) 10 SCC 414 : (2007) 2 SCC (Cri) 390] , SCC para 9, the evidence of an injured eyewitness has great evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly. There are concurrent findings recorded by the courts below holding the appellants — original accused guilty which do not require any interference by this Court in exercise of powers under Article 136 of the Constitution of India.”

Thus, the Courts below are right in attaching credibility to evidence of injured witness.

¹ The above decision was applied in *Lakshman Singh v. State of Bihar*, (2021) 9 SCC 191; relied upon in *Manjeet Singh v. State of Haryana*, (2021) 18 SCC 321; affirmed in *Ashok Kumar Singh Chandel v. State of U.P.*, (2022) 20 SCC 114; and followed in *Sadakat Kotwar v. State of Jharkhand*, (2024) 17 SCC 331.



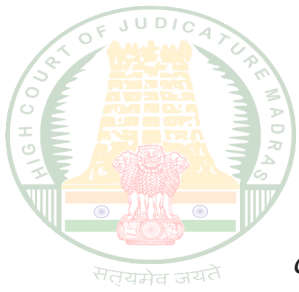
13. Defective Investigation not fatal:

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(i) The submission by petitioners that the investigation was defective inasmuch as Manigandan was not examined and that there were no blood stains in the recovered knife / weapon, as indicative of lapses in investigation but not taken into account by trial Court. Assuming that there has been lapses or deficiency in investigation, that by itself would not prove fatal as long as evidence on record is adequate to support the case of prosecution. In this regard, it may be relevant to refer to the following decisions:-

i). *Ram Bali v. State of U.P.*, (2004) 10 SCC 598 : 2004 SCC (Cri) 2045 : 2004 SCC OnLine SC 504 at page 604:

*“12. The investigation was also stated to be defective since the gun was not sent for forensic test. In the case of a defective investigation the court has to be circumspect in evaluating the evidence. But it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective. (See *Karnel Singh v. State of M.P.* [(1995) 5 SCC 518 : 1995 SCC (Cri) 977])*



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14.....*When the direct testimony of the eyewitnesses corroborated by the medical evidence fully establishes the prosecution version, failure or omission or negligence on the part of the IO cannot affect the credibility of the prosecution version.*

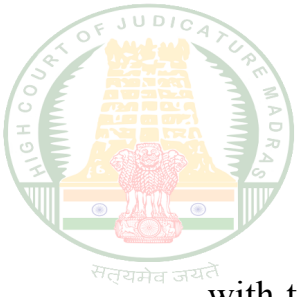
34. *Thus, what can be deduced from the above is that by itself non-recovery of the weapon of crime would not be fatal to the prosecution case. When there is such non-recovery, there would be no question of linking the empty cartridges and pellets seized during investigation with the weapon allegedly used in the crime.*

(emphasis supplied)

ii). ***Paras Yadav v. State of Bihar [(1999) 2 SCC 126 : 1999 SCC (Cri) 104]***

“It was held that if the lapse or omission is committed by the investigating agency or because of negligence there had been defective investigation the prosecution evidence is required to be examined de hors such omissions carefully to find out whether the said evidence is reliable or not and to what extent, such lapse affected the object of finding out the truth. The contaminated conduct of officials alone should not stand in the way of evaluating the evidence by the courts in finding out the truth, if the materials on record are otherwise credible and truthful; otherwise the designed mischief at the instance of biased or interested investigator would be perpetuated and justice would be denied to the complainant party, and in the process to the community at large.”

(emphasis supplied)



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14. In that view of the matter, this Court is not inclined to interfere

with the judgment passed in C.C.No.06/2011 on the file of the Assistant Sessions Court, Theni and confirmed in C.A.No.69/2017 on the file of the Additional District and Sessions Judge (Fast Track), Theni dated 18.01.2019.

15. With the above observations, the Criminal Revision Petition stands dismissed.

23.07.2026

Index: Yes/No
Neutral Citation : Yes/No
Speaking / Non Speaking order
Spp/Lm/anu

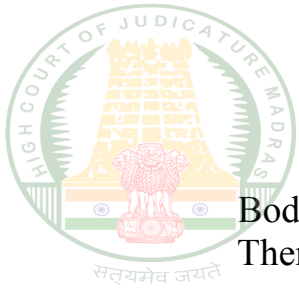
To:

1.The Assistant Sessions Court, Theni

2.The Additional District and Sessions Judge (Fast Track),
Theni

3.Inspector of Police,

19/21

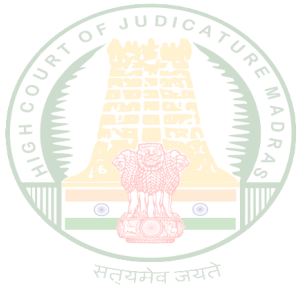


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Bodi Taluk Police Station,
Theni District,

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4.The Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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MOHAMMED SHAFFIQ, J

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