

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

Crl.Rev.Pet.No. 222 of 2011 ()

CRL.A 297/2010 of SESSIONS COURT,THRISSUR
CC 1106/2009 of J.M.F.C.-I,THRISSUR

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

SETHUKRISHNAN @ SETHU,AGED 35 YEARS,
S/O.KUNJIKRISHNAN, BINDHU NIVAS, PUTTUMELKONAM
JUNCTION, NEAR EMS ACADEMY, VILAPPILSALA DESOM &
VILLAGE, THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.PAUL K.PETER
SRI.JOSEPH SEBASTIAN PURAYIDAM

RESPONDENT/RESPONDENT/STATE:

STATE OF KERALA,REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
13-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.222 of 2011

Dated this the 13th day of November 2015

O R D E R

The revision petitioner is the accused in C.C.No.1106 of 2009 on the files of the Court of the Judicial Magistrate of First Class-1, Thrissur.

2. The trial court convicted the revision petitioner under Sections 454, 380 and 461 I.P.C. and sentenced him thereunder to simple imprisonment for two years each and a fine of Rs.2,000/- each under Sections 454 and 380 I.P.C. and simple imprisonment for one year under Section 461 I.P.C. The appeal filed against the said conviction and sentence was dismissed. Aggrieved by the said conviction

and sentence, this Revision Petition has been filed.

3. Heard.

4. The prosecution allegation is that on 7.2.2009 at 11.30 a.m., the revision petitioner trespassed into the residence of PW1 and committed theft of gold ornaments worth Rs.25,000/- and Rs.14,000/- as cash kept in the almirah in the said house.

5. Before the trial court, PW1 to PW9 were examined and Exts.P1 to P5 were marked for the complainant, besides identifying MO1. No evidence was adduced on the side of the revision petitioner.

6. PW1 is the person from whose house the theft was committed. PW1 had given evidence in tune with the prosecution case. PW2 is the wife of PW1 who had also

supported the evidence of PW1 in all material aspects. PW3 is the Jewellery owner, who had given evidence that the revision petitioner sold one gold ring, two studs and a locket to PW3. PW3 produced MO1 gold ingot to the Police when the Police came to his shop along with the revision petitioner. The Police seized MO1 as per Ext.P5 seizure Mahazar. PW4 and PW5 are attestors to Ext.P5 seizure mahazar who also supported the prosecution case. PW9 was the Circle Inspector, who arrested the revision petitioner on 5.4.2009. PW9 stated that when arrested and questioned, the revision petitioner had given Ext.P4 disclosure statement and in pursuance to Ext.P4 disclosure statement and as led by the revision petitioner, PW9 and party reached the shop of PW3 along with the revision

petitioner and thereafter, PW3 produced MO1 gold ingot, which was seized by PW9 as per Ext.P5 seizure mahazar.

7. The courts below, relying on the documentary as well as the oral evidence adduced by the complainant, concurrently found that the revision petitioner committed the offence under Sections 454, 380 and 461 I.P.C. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same unless the finding is perverse or incorrect. No circumstance has been brought to my notice to indicate that the appreciation of evidence by the courts below was perverse or incorrect. The courts below found the revision petitioner guilty under Sections 454, 380 and 461 I.P.C. and convicted him thereunder. Having gone through the relevant inputs, I do not find any

reason to interfere with the concurrent finding by the courts below that the revision petitioner committed the offence under Sections 454, 380 and 461 I.P.C.

8. Considering the nature of the offence, the sentence awarded by the courts below also does not call for any interference by this court.

In the result, this revision petition stands dismissed.

The revision petitioner is entitled to set off under Section 428 Cr.P.C. for the period of his detention in connection with this case.

SD/
B.SUDHEENDRA KUMAR,
JUDGE

dl/17.11.2015

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PA to Judge