

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

Crl.Rev.Pet.No. 808 of 2015 ()

CRA 533/2012 of III ADDL. SESSIONS COURT, THRISSUR
CC 158/2004 of J.F.C.M.,CHAVAKKAD
CRIME NO. 164/2003 OF PAVARATTY POLICE STATION, THRISSUR

REVISION PETITIONER/APPELLANT/ACCUSED:

BENSON, C.NO.3405,
(CENTRAL PRISON KANNUR)
S/O.LONAPPAN, KOZHUKKULLIKARAN HOUSE
ANTHIKAD DESOM, ANTHIKAD VILLAGE, THRISSUR

BY ADVS.SRI.KRISHNALAL S.(STATE BRIEF)

RESPONDENT/RESSPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY GOV.PLEADER
AND PUBLIC PROSECUTOR, HIGH COURT OF KERALA

BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 16-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.808 of 2015

Dated this the 16th day of September 2015

O R D E R

The revision petitioner is the first accused in C.C.No.158 of 2004 on the files of the Court of the Judicial Magistrate of First Class, Chavakkad.

2. The trial court convicted the revision petitioner under Sections 379 and 414 of the Indian Penal Code (for short 'the I.P.C.') and sentenced him thereunder to rigorous imprisonment for two years and a fine of Rs.1,000/- under Section 379 I.P.C. and rigorous imprisonment for two years

under Section 414 I.P.C. The above conviction and sentence were confirmed by the appellate court as per judgment in CrI.A.No.533 of 2012. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard.

4. The prosecution allegation is that on 3.6.2003 at about 5.15 p.m., the revision petitioner along with the other accused, in furtherance of their common intention to commit theft, came in a motor cycle, ridden by the second accused with the revision petitioner as the pillion rider and snatched away the gold chain weighing four sovereigns from the neck of PW1.

5. The revision petitioner was produced before the

Court on 16.4.2005. After complying with the legal formalities, the learned Magistrate framed the charge against him. He pleaded not guilty and claimed to be tried. Thereafter, the prosecution examined PW1 to PW9 and Exts.P1 to P6. While so, the learned counsel appointed by the revision petitioner filed vakalath for the revision petitioner. He also filed a petition to frame the charge against him. He filed a petition to permit him to plead guilty. The court below on being satisfied that the plea of the revision petitioner was voluntary and was made after understanding the nature and consequences of the pleading guilty, accepted the plea of guilty as voluntary and convicted the revision petitioner under Sections 379 and 414 I.P.C.

6. This Court in **Santhosh v. State of Kerala** (2003

(1) KLT 795) held that it is open to an accused to withdraw his claim to be tried and plead guilty in the course of trial as there is no prohibition in the Cr.P.C. in recording of the plea of the accused during the course of trial.

7. The Apex Court in **State of Maharashtra v. Sukhdeo Singh And others** (AIR 1992 SC 2100) held thus:

“The plain language of this provision shows that if the accused pleads guilty the Judge has to record the plea and thereafter decide whether or not to convict the accused. The plea of guilt tantamounts to an admission of all the facts constituting the offence. It is, therefore, essential that before accepting and acting on the plea the Judge must feel satisfied that the accused admits facts or ingredients constituting the offence. The plea of the accused, must, therefore, be clear, unambiguous and

unqualified and the Court must be satisfied that he has understood the nature of the allegations made against him and admits them. The Court must act with caution and circumspection before accepting and acting on the plea of guilt. Once these requirements are satisfied the law permits the Judge trying the case to record a conviction based on the plea of guilt. If, however, the accused does not plead guilty or the learned Judge does not act on his plea he must fix a date for the examination of the witnesses i.e, the trial of the case. There is nothing in this Chapter which prevents the accused from pleading guilty at any subsequent stage of the trial. But before the trial Judge accepts and acts on that plea he must administer the same caution unto himself. This plea of guilt may also be put forward by the accused in his statement recorded under Section 313 of the Code.”

8. The present case is a warrant trial case by the Magistrate. The procedure for the trial of warrant cases by the Magistrate is outlined in Chapter XIX of the Code.

9. As per the procedure provided in that chapter, after the case is opened as required under Section 239 Cr.P.C, if, upon considering the police reports and documents sent with it under Section 173 Cr.P.C. and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

10. Section 240 Cr.P.C. deals with the framing of charge. Section 241 Cr.P.C. provides that if the accused pleads guilty, the Magistrate must record the plea and may,

in his discretion, convict him thereon. There is nothing in this chapter which prevents the accused from pleading guilty at any subsequent stage of the trial. However, the plain language of this provision shows that if the accused pleads guilty, the Judge has to record the plea and thereafter decide, whether or not to convict the accused. The plea of guilt tantamounts to an admission of all facts. It is essential that before accepting and acting upon the plea, the Judge must feel satisfied that the accused admits the facts and ingredients constituting the offence. The plea of the accused must therefore be clear, unambiguous and unqualified and the court must be satisfied that he has understood the nature of the allegations made against he has admitted them. The courts must act with caution and circumspection before accepting and acting on the plea of

guilty. Once these requirements are satisfied, the law permits the Judge trying the case, to record the conviction based on the plea of guilty.

11. In this case, the revision petitioner was represented by a lawyer of his own choice. The trial court was convinced that the plea of guilty made by the revision petitioner was voluntary. No circumstance has been brought to my notice by the learned State Brief to hold that the order impugned is not legal, proper or correct. In the said circumstances, I find no reason to interfere with the order of the court below, accepting the plea of guilty of the accused as voluntary. 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 get set off for the

period of his detention in connection with this case.

Sd//

**B.SUDHEENDRA KUMAR,
JUDGE.**

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/ True copy /

PA to Judge