

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2015

CORAM:

THE HON'BLE MR.JUSTICE B. RAJENDRAN

CRL. R.C. No. 1050 of 2015
and M.P.Nos. 1 and 2 of 2015

Suresh

.. Petitioner/A1

Versus

State
rep. by Inspector of Police
Thiruvalam Police Station
Vellore District
(Crime No.60 of 2009)

.. Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of the Criminal Procedure Code, against the judgment of conviction and sentence passed by the learned Principal District and Sessions Judge, Vellore, Vellore District, in Crl.A. No. 121 of 2013, dated 18.06.2015, confirming the judgment of conviction and sentence passed by the learned Judicial Magistrate, Katpadi, Vellore District, in C.C. No. 558 of 2009, dated 28.11.2013.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.V.Arul
Government Advocate
(Criminal Side)

O R D E R

The petitioner/accused No.1 stood charged for the offence punishable under Section 379 IPC, alleging that on 22.02.2009, at about 7.00 a.m., at Thiruvallam, while the witness Valliammal was aboard the front side of the bus, the petitioner along with others are alleged to have stolen her purse and committed theft of a gold ring and ear wear each weighing $\frac{1}{2}$ sovereigns. After trial, the petitioner/accused No.1 was convicted by the learned Judicial Magistrate, Katpadi, Vellore District, in C.C.No.558 of 2009 for the offence under Section 379 IPC and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for one month. The judgment of conviction and sentence imposed on the petitioner/accused No.1 was confirmed by the learned Principal District and Sessions Judge, Vellore, Vellore District, on

18.06.2015 in CrI.A. No. 121 of 2013. Aggrieved against the same, the petitioner/accused No.1 has come forward with the present Criminal Revision Case.

2. Today, when the matter is taken up, Mr.E.Kannadasan, learned counsel appearing for the petitioner/accused No.1 would submit that both Courts below erred in convicting the petitioner only on the ground of non cross-examination of the prosecution witnesses. He would further submit that he is not arguing the matter on merits, but, he is confining his argument only on the question of sentence imposed on the petitioner/accused No.1 by the Appellate Court. He would further submit that the petitioner is now aged 32 years and he is the sole breadwinner of the family. He would further add that the petitioner/ accused No.1 has already undergone imprisonment from 22.02.2009 to 16.03.2009. He would further contend that the petitioner has paid the fine amount and hence, he prayed for showing leniency in reduction of sentence to the effect that the period already undergone may be held sufficient.

3. I heard Mr.V.Arul, learned Government Advocate (Criminal Side) appearing for the respondent, who on instructions would submit that insofar as to the reduction in sentence is concerned, he leaves it to the discretion of the Court.

4. Heard both sides. By consent, this Criminal Revision Case is taken up for final disposal.

5. Taking into consideration of the fact that the petitioner/accused No.1 is the sole breadwinner of the family and he is presently aged 32 years and that the stolen articles were recovered, apart from that, the petitioner has already undergone imprisonment for few days from 22.02.2009 to 16.03.2009, apart from the fact the learned counsel appearing for the petitioner is not arguing the matter on merits, but, he is confining his argument only on the question of sentence imposed on the petitioner by the Appellate Court and prayed for showing leniency in reduction of sentence to the effect that the period already undergone may be held sufficient, I am of the view that some leniency can be shown to the petitioner/accused No.1 in reducing the sentence by enhancing the fine amount. Accordingly, while confirming the conviction imposed by the Appellate Court, the sentence alone is reduced to the period already undergone by the petitioner/accused No.1, however, on condition that the petitioner shall pay the enhanced fine of Rs.5,000/- (Rupees Five Thousand only), since, now, it is represented that the fine of Rs.1,000/- ordered by the Trial Court was already paid, after deducting the said sum, the petitioner/accused No.1 shall pay a sum of Rs.4,000/- (Rupees Four Thousand only) within a period of four weeks from the date of receipt of a copy of this order, failing which, it is made clear that the accused No.1 shall undergo rigorous imprisonment for a period of three months and in default of payment of said fine amount, the defacto complainant is at liberty to

approach the Trial Court, which shall take steps to secure the accused No.1 to undergo the said period of sentence.

6. With the above modification in sentence, this Criminal Revision Case is partly allowed. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

paa

To

1.The Principal District and Sessions Judge,
Vellore
Vellore District.

2.The Judicial Magistrate,
Katpadi
Vellore District.

3.-do-Thro'The Chief Judicial Magistrate
Vellore District

4.The Inspector of Police
Thiruvalam Police Station
Vellore District.

5. The Public Prosecutor
High Court, Madras-104

+1 cc to Mr.E.Kannadasan Advocate sr.53904/15

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