

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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CRIMINAL REVISION CASE No.476 of 2015

ORDER:

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The present revision is filed by accused No.1 under Sections 397 and 401 Cr.P.C. aggrieved by the judgment dated 19.05.2012 passed in CrI.A.No.291 of 2011 on the file of the V Additional District and Sessions Judge (Fast Track Court), East Godavari at Rajahmundry, wherein the learned Sessions Judge, confirmed the conviction and sentence passed by the learned I Additional Sessions Judge, Rajahmundry in S.C.No.65 of 2011.

A charge sheet came to be filed against the petitioner/accused No.1 and another for an offence punishable under Section 392 IPC. The averments in the charge sheet are that on 15.06.2010 PW.1 after getting down from the bus at 10.30 a.m. at G.S.L.Hospital stage, boarded the auto of accused No.1 to go to Diwancheruvu. While proceeding, the driver of the auto proceeding towards a petrol bunk filled oil and then proceeded to the eastern side road by the side of petrol bunk without going to Diwancheruvu. Out of fear, PW.1 raised cries loudly, but accused No.2, who sat in auto as passenger shut her mouth, caught hold of her tuft, forcibly dragged her out of the auto and snatched away her gold mangalsuthram thadu, two bangles, rings, a purse containing Nokia cell phone and cash of Rs.800/-. Thereafter they pushed her aside and both of them fled away in the said auto. Basing on the report lodged by PW.1 a case in Crime No.111 of 2010 of Rajahmundry Rural Police Station came to be registered for an offence punishable under Section 392 IPC against the accused.

After taking cognizance of the case and on appearance of the accused Nos.1 and 2, the learned I Additional Assistant Sessions Judge, Rajahmundry framed charges for the offences punishable under Sections 394, 411, 413 and 414 read with 34 IPC, to which the accused pleaded not guilty and claimed to be tried.

In support of its case, the prosecution examined PWs.1 to 8 and got

marked Exs.P1 to P7 and M.Os.1 to 5.

After closure of the prosecution evidence, the accused were examined U/s. 313 Cr.P.C. where they denied the evidence on record. No oral or documentary evidence was adduced on behalf of the accused.

After appreciating the oral and documentary evidence on record, the learned I Additional Assistant Sessions Judge, Rajahmundry found accused Nos.1 and 2 guilty of the charge U/s.394 read with 34 IPC, convicted and sentenced them to undergo Rigorous Imprisonment for a period of five years each and to pay fine of Rs.500/- each, in default simple imprisonment for one month. Aggrieved by the same, both the accused preferred CrI.A.No.291 of 2011 before the V Additional District and Sessions Judge, East Godavari at Rajahmundry, who vide his judgment dated 19.05.2012 confirmed the conviction and sentence imposed by the learned I Additional Assistant Sessions Judge, Rajahmundry. Challenging the same the present revision is filed by accused No.1 only.

A perusal of the material on record would show that both the Courts below after appreciating the evidence of PWs.1 to 3 convicted the accused. PW.1 in her evidence deposed that on 15.06.2010 she after got down from the bus at G.S.L.Hospital bus stop, Rajahmundry and boarded an auto to go to Diwancheruvu Branch of State Bank of India. By that time accused No.2 was present in the auto as passenger. She sat by his side in the auto and the driver (accused No.1) started the auto and turned towards petrol bunk. After filling the tank with petrol, accused No.1 diverted the route. Despite her questioning accused No.1 took the auto on to the mud road to a distance of one furlong. Then, accused No.2 forcibly removed her pusthela thadu from her neck by holding her tuft, beat her and pulled two gold bangles, two gold rings and later dragged on her to the floor. She further deposed that accused Nos.1 and 2 also snatched away her pouch containing cell phone and cash of Rs.800/-. She informed the same to PWs.2 and 3. On arrival of PW.2, she went to the police station and lodged the report Ex.P1.

PW.2 is the husband and PW.3 is the co-employee of PW.1. They stated that they came to know about the incident through PW.1 and both of them deposed the incident as narrated by PW.1.

Though PWs.1 to 3 were cross examined at length, nothing useful was elicited to discredit their evidence. Hence, I see no reason to interfere with the concurrent findings arrived at by both the Courts below.

Learned counsel for the petitioner submits that the petitioner is in jail since last three years and some leniency may be shown on the quantum of sentence. The trial court found the petitioner guilty for the offence punishable U/Sec.394 read with 34 I.P.C. and sentenced both the accused to undergo rigorous imprisonment for five years. On appeal the lower appellate Court confirmed the same. Since the offence took place in the year 2010 and on overall consideration of the entire material available on record and the gravity of the offence, the sentence of imprisonment imposed by the trial court is modified by reducing it from five years to three years while confirming the fine.

With the above modification in sentence of imprisonment alone, the Criminal Revision Case is disposed of.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

JUSTICE C. PRAVEEN KUMAR

23.04.2015

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