

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CrI.R.C.No.754 of 2015

JUDGMENT

This revision is directed against the judgment dated 27.04.2015 passed by the learned Metropolitan Sessions Judge, Hyderabad in CrI.A.No.1130 of 2014.

2. The brief facts of the prosecution case are as follows:

On 19.05.2010 at about 9.00 PM, P.W.1-de facto complainant closed his shop and on 20.05.2010 at about 10.00 AM, when he went to his shop, he found that the lock was opened and some iron Kaman patties, which were attached to cover patties, were missing. Then, he gave a report to the police and the same was registered as Cr.No.75 of 2010 for the offences punishable under Sections 457 and 380 IPC. After recording the statements of witnesses concerned and after completion of investigation, the police laid the charge sheet against A1 to A3.

3. To substantiate the case of the prosecution, P.Ws.1 to 6 were examined and Exs.P1 to P3 were marked on behalf of the prosecution. No evidence was adduced and no document was marked on behalf of defence.

4. By judgment dated 24.10.2014 in C.C.No.527 of 2010, the learned Chief Metropolitan Magistrate, Hyderabad, after taking into consideration the evidence of prosecution witnesses, found A1 to A3 guilty of the offences under Sections 457 and 380 IPC and thereby convicted and sentenced to undergo rigorous imprisonment for a period of one year each and also to pay a fine of Rs.500/-each in default to undergo simple imprisonment for a period of one month each for the offence under Section 457 IPC; and A1 to A3 were also sentenced to undergo rigorous imprisonment for a period of one year each and also to pay a fine of Rs.500/-each in default to undergo simple imprisonment for

a period of one month each for the offence under Section 380 IPC. The case property was ordered to be returned to P.W.3. Questioning the said conviction and sentence, A1 to A3 filed CrI.A.No.1130 of 2014 and the lower appellate Court on re-appreciation of the entire evidence, dismissed the appeal confirming the conviction and sentence recorded by the trial Court. Aggrieved by the same, the petitioner/A2 filed the present revision.

5. Today, when the matter came up for hearing, the de facto complainant-P.W.1 and the petitioner/A2 are present before the Court along with their respective counsel. They produced the xerox copies of their Identity Cards. The de facto complainant i.e., proposed respondent No.2 and the petitioner/A2 filed a joint memo stating that the matter has been compromised between them and there is no objection to acquit the petitioner/A2.

6. Though the parties have compromised the matter out of the Court, this Court is not inclined to record the said compromise as the offences with which the petitioner/A2 was convicted and sentenced by the Courts below are non-compoundable in nature and therefore, the conviction imposed by the Courts below against the petitioner/A2 is confirmed.

7. Insofar as the sentence of imprisonment is concerned, it appears from the record that the petitioner/A2 was in jail for a substantial period. In the facts and circumstances of the case and in view of the nature of the offence committed by the petitioner-A2 and also considering his age and the value of the property, this Court is of the view that the sentence of imprisonment imposed on the petitioner/A2 by the Courts below is reduced to the period already undergone, while maintaining the sentence of fine imposed by the said Courts.

8. Subject to the aforesaid modification, the Criminal Revision Case is disposed of. Consequently, Miscellaneous Petitions, if any, pending in this revision, shall stand closed.

RAJA ELANGO, J

7th October, 2013

sj