

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**REVISION APPLICATION NO.410 OF 2015
IN
CRIMINAL APPEAL NO.99 OF 2014
WITH
CRIMINAL APPLICATION NO.353 OF 2015
IN
REVISION APPLICATION NO.410 OF 2015
WITH
CRIMINAL APPLICATION NO.354 OF 2015
IN
REVISION APPLICATION NO.410 OF 2015**

Izaruddin Aishmohmed Ansari .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Rajagopal Sellamuthu, Advocate, for the
Applicant

Mr.A.R.Kapadnis, APP, for the Respondent - State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.12.2016

ORAL ORDER

. Heard learned counsel for the parties.

2. Rule. Rule is made, returnable forthwith
with the consent of the parties and is taken up
for final disposal at the stage of admission.

3. Learned APP waives notice on behalf of the Respondent - State.

4. By this Revision Application, the Applicant has impugned the Judgment and Order dated 06.01.2014 passed by the learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai in C.C.No.319-PW-13, by which the Applicant was convicted for the offence punishable under Section 392 r/w.34 of the Indian Penal Code and sentenced to suffer R.I. for two years and to pay fine of Rs.2,000/-, in default to suffer further R.I. for one month. The said Judgment and Order has been confirmed by the learned Addl. Sessions Judge, Greater Bombay in Cri. Appeal No.99 of 2014 by Judgment and Order dated 24.07.2015. Hence, this Revision Application.

5. At the outset, it may be noted that the Applicant was facing prosecution under Section 392 r/w.34 of the Indian Penal Code alongwith

co-accused Naim Mohemmed Shaikh alias Tapa and that the trial Court was pleased to acquit co-accused Naim Shaikh of the said offence.

6. According to the Complainant (PW.1) - Kumari Shruti Shridhar Chavan, aged 22 years, the incident occurred on 03.09.2012 at 6.15 a.m., near the Sambhaji Nagar footway, near the Eastern Express Highway, Vile Parle(E), Mumbai. PW.1 - Shruti in her evidence has stated that when she was proceeding on the said road, the Applicant alongwith the co-accused came on a motor cycle, went ahead, stopped and thereafter, returned back towards her. She has stated that the boy riding pillion on the motor cycle snatched her gold chain. She has identified the Applicant as being the person, who had snatched her gold chain. She has stated that when her gold chain was snatched by the Applicant, she tried to prevent the attempt, however, the accused succeeded in escaping from the spot. She has stated that pursuant to the said incident,

she lodged a complaint with the Vile Parle Police Station. The said FIR was exhibited as Exh.10. The said witness has given the description of the person, who snatched the chain in the FIR and has also identified the Applicant. She has also identified the gold chain which was seized at the instance of the Applicant. PW.2 - Chetan Mansukhlal Chauhan is the panch to the memorandum and recovery panchanama. PW.4 - is API Manish Vinayakrao Patil, the investigating officer from the Vile Parle Police Station. He has stated that on 04.12.2012, the Applicant and the co-accused, who were arrested in another crime, disclosed their involvement in the present crime, pursuant to which they were arrested. He has stated that the Applicant during his interrogation, disclosed that he had concealed the gold chain at his mother-in-law's house at Bhagatsingh Nagar, Goregaon, Mumbai, pursuant to which the chain was recovered and panchanama was drawn. He has stated that the Applicant led the panchas

and the police to his mother-in-law's house and produced the gold chain, which he had kept in the said house. He has stated that the said chain which was seized at the instance of the Applicant, was shown to the complainant, who identified the chain as belonging to her. He has stated that thereafter, Test Identification Parade was held in the presence of the Executive Magistrate, Andheri and that the Complainant i.e. PW.1 - Shruti had identified the Applicant, as the person, who had snatched her chain. He has stated that pursuant thereto, he filed a charge-sheet as against the Applicant and the co-accused.

7. Perused the papers including the impugned Judgments and Orders.

8. Learned counsel for the Applicant submitted that the prosecution had failed to prove the Test Identification Parade. He further submitted that the complainant's testimony was

not sufficient to establish the identity of the Applicant.

9. Learned APP supported the impugned Judgments and Orders.

10. The complaint was lodged by PW.1 - Shruti Chavan on the very day, when the incident of chain snatching had occurred. PW.1 - Shruti had given the description of the accused in the FIR, although the complaint was lodged as against unknown persons. It appears that subsequently, the Applicant and co-accused - Naim were arrested in connection with another C.R., in which they disclosed their involvement in the present C.R., pursuant to which PW.4 - API Patil arrested them in the present C.R.. During investigation, the Applicant made a statement pursuant to which the complainant's gold chain was recovered at his instance, from his mother-in-law's house at Goregaon, Mumbai.

11. A perusal of the evidence of PW.1 - Shruti shows that she had identified the Applicant as being the person, who snatched her gold chain. She has also identified the chain which was recovered at the instance of the Applicant. There is nothing in the cross-examination to discredit or disbelieve the testimony of PW.1 - Shruti and PW.4 - API Patil. Merely because no independent witness was examined in support of the incident, would not in anyway throw any shadow of doubt on the prosecution case. There is nothing in the evidence to show that the Applicant has been falsely implicated in the said case. The trial Court has rightly convicted the Applicant for the offence with which he is charged and the Sessions Court has rightly confirmed the said conviction. No interference is warranted in the impugned Judgments and Orders. No ground is made out in the aforesaid Revision Application.

12. Accordingly, the Revision Application, being sans merit is dismissed.

13. In view of dismissal of the Revision Application, the Cri. Application Nos.353 & 354 of 2015 do not survive and the same stand dismissed.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)