

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1741 of 2008

JUDGMENT:

Petitioner/A-2 filed this criminal revision case by invoking the provisions under Sections 397 & 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 24.11.2008 rendered in Criminal Appeal No.97 of 2007 by the Special Sessions Judge-cum-IV Additional District Judge, Tirupathi, whereby and whereunder the conviction and sentence of the petitioner/A-2 to undergo Simple Imprisonment for a period of three (3) months for the offence punishable under Section 379 IPC recorded in judgment, dated 09.05.2007, in C.C.No.46 of 2004, by the Additional Junior Civil Judge, Srikalahasthi, Chittoor District, was confirmed.

2. The brief facts, that are necessary for the disposal of the present Criminal Revision Case, may be stated as follows:

On 24.01.2005 P.W.1 along with his brother T. Sadasivaiah went to his fields during night hours in order to watch the fields and at 11.00 p.m., he noticed two persons running away from the fields and he also heard some noise due to which P.W.1 along with Sadasivaiah and another person chased both the persons and caught hold of them red-handedly near the scene of offence while they were in possession of cable wire which is connected from the motor to the starter which is having a length of 24 meters worth Rs.1,000/-, which was committed by them. Both the accused along with the property were produced before Padmanabha Naidu, who was the Sarpanch and on his advise, P.W.1 along with his brother and another person produced both the accused before the

police and presented Ex.P-1 - report. Police seized the cable wire from the possession of the accused under cover of police proceedings Ex.P-2. On receipt of Ex.P-1, P.W.3 registered the same as a case in Crime No.6 of 2004 under Section 379 IPC and arrested the accused and after completion of investigation, P.W.3 laid charge sheet.

3. On appearance of the accused before the trial Court, the charge under Section 379 IPC was framed against the accused, read over and explained to him in telugu, for which, he pleaded not guilty and claimed for trial.

4. To substantiate its case, prosecution got examined PWs.1 to 3 and marked Exs.P-1 to P-4 and M.O.1. On behalf of defence, no oral or documentary evidence was adduced.

5. After appreciating the oral and documentary evidence available on record, the trial Court found the accused guilty of the offence punishable under Section 379 IPC, and accordingly, convicted and sentenced him as stated above. Aggrieved by the conviction order, the petitioner filed CrI.A.No.97 of 2007. The lower appellate Court dismissed the appeal by confirming the order of the trial Court, by judgment, dated 24.11.2008. Challenging the same, the present revision case is filed.

6. Heard and perused the entire material available on record.

7. After hearing the arguments of the learned counsel for both sides and after perusing the material available on record, this Court is of the view that there are no reasons to set aside the conviction against the petitioner/A-2 for the offence under Section 379 IPC. When this Court expressed its opinion that this Court is

not inclined to interfere with the concurrent findings of the Courts below, learned counsel for the petitioner submitted that he will confine his arguments only to the extent of the period of imprisonment imposed against the petitioner.

8. Considering the facts and circumstances of the case and also in view of the submission of the learned counsel for the petitioner, this Court is inclined to reduce the sentence of imprisonment imposed against the petitioner for the offence under Section 379 IPC to that of the period, which the appellant has already undergone.

9. In the result, the conviction recorded against the petitioner/A-2 by the Additional Junior Civil Judge, Srikalahasthi, Chittoor District, in C.C.No.46 of 2004, vide Judgment, dated 09.05.2007, for the offence under Section 379 IPC, as confirmed by the Special Sessions Judge-cum-IV Additional District Judge, Tirupathi, in Criminal Appeal No.97 of 2007, vide judgment, dated 24.11.2008, is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the lower appellate Court, is modified to that of the period, which the petitioner has already undergone.

10. The Criminal Revision Case is, accordingly, allowed in part. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.

RAJA ELANGO, J

Date: 20th September, 2016

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