

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.729 OF 2008

ORDER:

This Criminal Revision Case is filed by the petitioners/A-1 and A-2 under Section 397 read with 401 Cr.P.C. challenging the judgment, dated 6.5.2008, in Criminal Appeal No.20 of 2007 on the file of the VI Additional District and Sessions Judge (Fast Track Court), Markapur whereunder and whereby, the learned Sessions Judge dismissed the appeal filed by the petitioners against the judgment, dated 12.2.2007, in C.C.No.84 of 2006 on the file of the Judicial Magistrate of First Class, Giddalur.

2. Case of the prosecution, in brief, is as follows:

On 17.7.2004, at 22:00 hours, A-1 to A-3 stopped the car of P.W.1 at Nandyal State Highway road by placing boulders on the road and robbed jewels and cash from P.Ws.1 and 2 by threatening them with sticks and decamped with the booty. On a report given by P.W.1, the case was registered and investigated into. On 9.8.2004, P.W.5 arrested the accused in the presence of mediators and seized portion of stolen property under cover of mediators report. P.W.1 identified his property in the identification parade and also identified A-1 and A-2 in the identification parade conducted by Judicial First Class Magistrate, Markapur. Thus, the accused are liable for punishment for the offence under Section 392 I.P.C. After completion of investigation, the Inspector of Police, Giddalur Police Station filed charge sheet in Crime No.106 of 2004 for the offence under Section 392 I.P.C.

3. Cognizance was taken against the accused for the offence under Section 392 I.P.C. After appearance of the accused, they were charged under Section 392 I.P.C. for which, they pleaded not guilty. So, they were placed for trial.

4. The prosecution examined five witnesses and marked six documents apart from three material objects. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C., but they denied the evidence. On behalf of the accused, no witnesses were examined and no documents were got marked.

5. After considering both oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Section 392 I.P.C. and accordingly, convicted and sentenced them to undergo rigorous imprisonment for a period of eight months and to pay a fine of Rs.100/- each and in default, to undergo simple imprisonment for a period of one week each. Aggrieved thereby, the petitioners preferred the aforementioned appeal and the same was dismissed by the learned Sessions Judge confirming the judgment of the trial Court on the ground that the trial Court has not committed any error. Challenging the said judgment, the petitioners filed this Revision Case.

6. Heard and perused the material available on record.

7. Considering all the facts and circumstances of the case and from the material available on record, both the Courts below have rightly come to the conclusion that the accused have committed the offence punishable under Section 392 I.P.C. and accordingly,

convicted them as stated supra. Hence, this Court is not inclined to interfere with the conviction imposed by the Courts below.

8. At this stage, learned counsel for the petitioners submitted that A-1 is suffering from Tuberculosis and A-2 is having three female children and he is the sole bread winner of his family and hence, prayed to reduce the sentence of imprisonment.

9. Considering the facts and circumstances of the case and the submission of the learned counsel for the petitioners, this Court is inclined to reduce the sentence of imprisonment.

10. In the result, the conviction imposed against the petitioners/A-1 and A-2 in the judgment, dated 12.2.2007, in C.C.No.84 of 2006 on the file of the Judicial Magistrate of First Class, Giddalur, which was confirmed in the judgment, dated 6.5.2008, in Criminal Appeal No.20 of 2007 on the file of the VI Additional District and Sessions Judge (Fast Track Court), Markapur for the offence punishable under Section 392 I.P.C. is confirmed. However, the sentence of imprisonment imposed by the trial Court, which was confirmed by the first appellate Court, for the said offence is reduced to the period which the accused have already undergone, while maintaining the sentence of fine.

11. Accordingly, this Criminal Revision Case is partly allowed.

12. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

29.8.2016
AMD

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Date: 29.8.2016

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