

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1604 of 2006

JUDGMENT:

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1. This Criminal Revision Case is filed by the accused challenging the judgment dated 21.9.2006 passed in CrI.A.No.95 of 2004 by the II Additional District & Sessions Judge, East Godavari District, Amalapuram.

2. The case of the prosecution is as follows:

On 26.12.2001, P.W.2 had gone to his parents' house at Ramakrishnapur, Adilabad District. His wife P.W.1 also went to her parents' house at Inavilli by locking their house. On 2.1.2002 at 8 a.m., P.W.1 returned to her house and noticed that the door was broken by some unknown persons and that BPL Colour TV Stabilizer, remote, gold rings of ½ sovereign and three silver anklets were missing. P.W.1 reported the matter to the police on 2.1.2002 and the police registered the case and investigated into. During the course of investigation, P.W.6 arrested the accused in the presence of P.Ws.4 and 5 on 4.1.2002 and recovered gold and silver ornaments of this case. After completion of the investigation, charge sheet was filed against the accused. The learned I Additional Judicial First Class Magistrate, Amalapuram, East Godavari District, took cognizance of the case for the offence under Sections 457, 380 and 411 IPC. and numbered it as C.C.No.39 of 2002.

3. The trial Court framed charges for the offence under Sections 457, 380 or 411 IPC against the petitioner, read over and explained to him in Telugu, for which, he pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws.1 to 6 were examined and Exs.P1 to P7 and M.Os.1 to 6 were marked on behalf of the prosecution. No oral or documentary evidence was adduced on behalf

of the accused.

5. On appreciation of both oral and documentary evidence, the trial Court found the petitioner -accused guilty for the offence under Section 411 IPC, convicted and sentenced him to undergo rigorous imprisonment for a period of one year. However, the petitioner was acquitted for the offence punishable under Sections 457 and 380 IPC. Aggrieved by the conviction and sentence imposed by the trial Court, the petitioner filed appeal in CrI.A.No.95 of 2004 before the II Additional District & Sessions Judge, East Godavari at Amalapuram. The said appeal was dismissed. Hence, the petitioner filed this revision.

6. Heard and perused the material available on record.

7. From the evidence on record, it is apparent that the stolen property in question was recovered from the petitioner. There was no explanation for possession of that stolen property. Therefore, the Courts below convicted the petitioner for the offence under Section 411 IPC. In view of the concurrent findings of both the Courts below, this Court is not inclined to interfere with the conviction rendered by the Courts below against the petitioner-accused for the offence under Section 411 IPC.

8. At this stage, the learned Counsel for the petitioner submitted that the petitioner is the sole bread-winner of his family and he has to look after his parents, wife and children and therefore, a lenient view may be taken.

9. Considering the facts and circumstances of the case and the submissions made by the learned Counsel for the petitioner, this Court is inclined to reduce the sentence of imprisonment imposed by the Court below against the petitioner-accused.

10. In the result, the conviction recorded by the trial Court and confirmed by the learned II Additional District & Sessions Judge, Amalapuram, against the petitioner-accused for the offence under Section 411 IPC is confirmed. However, the sentence of one year rigorous imprisonment imposed by the trial Court and confirmed by the learned II Additional District & Sessions Judge, Amalapuram is reduced to the period, which the petitioner-accused has already undergone.

11. Accordingly, the Criminal Revision Case is partly allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 26th July, 2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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