

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.969 of 2016

ORDER :

With consent of the counsel for the petitioner and the Public Prosecutor, the criminal revision case is disposed of at the stage of admission itself.

This Criminal Revision case is filed by the petitioner-accused by invoking the provision under Sections 397 and 401 of the Code of Criminal Procedure (for short 'Cr.P.C.') challenging the judgment dated 30.07.2015 passed in CrI.A.No.60 of 2015 by the learned Special Sessions Judge-cum-VII Additional District and Sessions Judge, Mahabubnagar, (FAC III ADJ Gadwal) wherein the learned Judge dismissed the appeal confirming the judgment dated 30.04.2015 passed in C.C.No.53 of 2015 on the file of the Judicial Magistrate of First Class, Gadwal, convicting the petitioner-accused under Section 248 (2) Cr.P.C. and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- for the offence punishable under Section 411 of Indian Penal Code (for short 'I.P.C.').

The case of the prosecution, in brief, is that on 15.02.2015 at 6.00 p.m. one K.V.Shekar lodged a report before the Police Station concerned stating that on 14.02.2015 he came to Gadwal on his personal work. At about 2.00 p.m. he along with his brother-in-law went to Vishnu Priya Hotel situated in Old bus stand, Gadwal, duly parking his motor cycle Passion Plus bearing No.AP21-AA-2215 in front of the hotel. On return, they found the motor cycle missing. Basing on the said report, a case in crime No.40/2015 was registered for an offence under Section 379 I.P.C. While so, on 18.02.2015 at about 5.00 p.m. when the Police officials were conducting vehicle checking near Second Railway gate Gadwal, they intercepted the accused. On enquiry he failed to produce documents and confessed that he committed theft of the said motorcycle. Further, the accused also confessed to have committed theft of motor cycle bearing

No.AP22-H-9542. In pursuance of his confession, motorcycles were recovered under a cover of panchanama in the presence of mediators and accused was remanded to judicial custody. After completion of entire investigation, Police filed charge sheet against the accused for an offence punishable under Section 379 I.P.C.

The trial Court took cognizance of the case in C.C.No.53 of 2015, examined the accused under Section 239 Cr.P.C. in which he denied the offence. A charge under Section 379 IPC was framed, read over and explained to him in Telugu to which he pleaded not guilty and claimed for trial. On behalf of the Prosecution, PWs 1 to 5 were examined and Exs.P.1 to P.6 and M.O.1 were marked. Accused denied the incriminating evidence read over to him while examining under Section 313 Cr.P.C. After analyzing the entire evidence both oral and documentary, the trial Court while acquitting the accused for the offence under Section 379 I.P.C., convicted him for the offence under Section 411 I.P.C. and sentenced him to undergo rigorous imprisonment for two years and to pay a fine of Rs.500/-, in default to suffer simple imprisonment for one month. Aggrieved over the same, petitioner-accused preferred an appeal in Criminal Appeal No.60 of 2015, which was dismissed by the Appellate Court on 30.07.2015. Challenging the same, present revision is preferred.

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

Though various grounds are raised in this criminal revision case by the learned counsel for the petitioner, he restricts his request seeking reduction of sentence as the petitioner is in jail since 18.02.2015 and he is the only earning member of his family.

Hence, the only issue that arises for consideration in this revision is 'whether the sentence of imprisonment imposed on the petitioner-accused is on a higher side and whether it can be reduced?'

The material on record would show that the incident took place on 14.02.2015 and the petitioner who was arrested on 18.02.2015 is in jail since then. Having regard to the facts and circumstances of the case and taking into consideration the fact that the petitioner is the sole earning member in the family, this Court is of the view that while confirming the conviction imposed on the petitioner, sentence of imprisonment imposed on him can be reduced.

In the result, the Criminal Revision Case is disposed of confirming the conviction imposed on the petitioner-accused for an offence punishable under Section 411 I.P.C. by the Additional Judicial First Class Magistrate, Gadwal, in C.C.No.53 of 2015 on 30.04.2015 as confirmed by the Special Sessions Judge-cum-VII Additional District and Sessions Judge, Mahabub Nagar, (FAC III ADJ Gadwal) on 30.07.2015 in Criminal Appeal No.60 of 2015, but however, the sentence of imprisonment imposed on the petitioner is reduced to that of the period already undergone by him in prison. Petitioner shall be set at liberty forthwith if he is not required in any other case.

Miscellaneous petitions pending in this revision, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

01.04.2016
sur