

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.01.2018

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1594 of 2017

and

Crl.M.P.No.16268 of 2017

1.Manikandan
S/o.Sekar

2.Kumaran @ Kumar

.. Petitioners

Vs.

State represented by
The Inspector of Police,
Nazarethpet Police Station.
Crime No.177 of 2010

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C. against the judgment of learned II Additional District Judge, Thiruvallur, Poonmallee, passed in C.A.No.26 of 2013 on 09.08.2017 confirming the judgment of learned Judicial Magistrate I, Poonamallee, passed in C.C.No.314 of 2010 on 22.03.2013.

For Petitioners :

Mr.A.M.Rahamath Ali

For Respondent :

Mr.V.Arul

Additional Public Prosecutor

ORDER

This revision is preferred against concurrent judgments of Courts below convicting petitioners for offence u/s.379 IPC and sentencing them to 6 months S.I. and fine of Rs.1,000/- each i/d 1 month S.I.

2. Petitioners and two others stood trial for offence u/s.379 IPC in C.C.No.314 of 2010 on the file of learned Judicial Magistrate I, Poonamallee. The prosecution case was that on 31.07.2010, accused stolen the Mahindra Van bearing registration No.TN-10-D-4403 belonging to *de facto* complainant. A case was registered in Crime No.177 of 2010 on the file of the respondent on the complaint lodged by PW-1. Upon completion of investigation, a charge sheet was filed informing commission of offence u/s.379 IPC.

3. Before the trial Court, prosecution examined eight witnesses and marked ten exhibits and two material objects. None were examined on behalf of the defence and no exhibits were marked.

4. On appreciation of evidence, trial Court, under judgment dated 22.03.2013, convicted petitioners and sentenced them to 6 months S.I. and fine of Rs.1,000/- each i/d 1 month S.I. There against, petitioners moved C.A.No.26 of 2013 on the file of learned II Additional District Judge,

Thiruvallur, Poonmallee, which came to be dismissed under judgment dated 09.08.2017.

5. Heard learned counsel for petitioners and learned Additional Public Prosecutor.

6. Learned counsel for petitioners has prayed that this Court may invoke the provisions of Probation of Offenders Act as the petitioners were aged 21 at the time of occurrence and otherwise have no criminal antecedents either prior or post the occurrence.

7. Learned Additional Public Prosecutor presently, on instructions, submits that petitioners are not involved in any other case.

8. In convicting petitioners, Courts below have reasoned that the stolen Van has been recovered on the basis of confession of accused and on their identification, which clearly revealed that the accused have committed the said offence. This Court, therefore, has no reason to interfere with the finding of conviction arrived at by Courts below. However, considering the nature of the case that petitioners have no bad antecedents prior or after the occurrence in this case, this Court is inclined to afford the benefit of Section 4

of the Probation of Offenders Act.

9. Accordingly, this Court would confirm the findings of conviction and sentence of the Courts below but invoke Section 4 of the Probation of Offenders Act. Consequently, this Court directs that petitioners be released on probation of good conduct, on each of them executing a bond in a sum of Rs.10,000/- (Rupees Ten Thousand only) with one surety in a like sum to the satisfaction of the trial Court viz., learned Judicial Magistrate I, Poonamallee, undertaking to appear and receive sentence when called upon to do so, during a period of two years of the date of the bond and in the mean time to keep the peace and be of good behaviour. It is made clear that in keeping with Section 12 of the Probation of Offenders Act, petitioners shall not suffer any disqualification, attaching to their conviction.

With the above direction, the Criminal Revision is disposed of. Connected miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
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To

1.The II Additional District Judge,
Thiruvallur, Poonmallee.

2.The Judicial Magistrate I,
Poonamallee.

3.The Inspector of Police,
Nazarethpet Police Station.

4.The Additional Public Prosecutor,
High Court, Madras - 600 104.



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C.T.SELVAM, J



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