

Bail Slip

The petitioner was enlarged on bail and in by the order dated 26/04/2013 made in MP No.1 of 2013 in Crl.Rc 601/2013 on the file of this High Court, Madras

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
Crl.R.C.No.601 of 2013

Kala @ Pechiammal

...Petitioner

Vs.

The State Represented by
The Inspector of Police
Nolambur Police Station
Nolambur, Chennai.
(Crime No.370/08)

...Respondent

Prayer: This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure to call for the records in C.A. No.56 of 2012 dated 20.03.2013 on the file of the Learned II-Additional District and Sessions Judge, Thiruvallur, Poonamallee confirming the sentence imposed in C.C.No.586 of 2008 on the file of the Learned Judicial Magistrate, Ambathur and set aside the said conviction and sentence.

For Petitioner : Mr.Davidsingh

For Respondent : Mr.R.Ravichandran
Govt. Advocate (Crl.Side)

ORDER

The Criminal Revision Case has been filed to call for the records in C.A.No.56 of 2012 dated 20.03.2013 on the file of the Learned II-Additional District and Sessions Judge, Thiruvallur, Poonamallee confirming the sentence imposed in C.C.No.586 of 2008 on the file of the Learned Judicial Magistrate, Ambathur and set aside the said conviction and sentence.

2. The Case of the prosecution is that the revision petitioner/accused was working as a servant maid in the house of P.W.1 and has committed theft of material objects M.O's.1 to 9, gold and silver jewels and utensils which were kept in the Almirah of P.W.1's residence. Therefore the defacto complainant has lodged a complaint before the respondent police. After

conducting investigation, the respondent police laid the final report under Section 381 of IPC and the same was sent to the learned Judicial Magistrate, Ambattur.

3. The case was taken on the file of the learned Judicial Magistrate, Ambattur and numbered as C.C.No.586 of 2008. When the incriminating evidences were put before the revision petitioner/accused, she denied the same and asked for trial.

4. In order to prove the case of the prosecution, as many as 8 witnesses P.W's.1 to 8 were examined, 13 documents Ex's.P.1 to 13 and 9 material objects M.O's.1 to 9 were marked. After hearing the argument of both side and also perusing the records and analyzing the evidence, the learned Judicial Magistrate has rightly convicted the revision petitioner/accused under Section 381 of IPC and also sentenced to undergo one year Rigorous Imprisonment with a fine of Rs.5,000/- and in default payment of fine to undergo further period of three months Simple Imprisonment.

5. Against the order of the learned Judicial Magistrate, Ambattur, in C.C.No.586 of 2008 dated 27.07.2012, the revision petitioner/accused preferred a Criminal Appeal before the learned II Additional District and Sessions Judge, Thiruvallur.

6. After giving due opportunity to both sides the learned II Additional District and Sessions Judge, Thiruvallur dismissed the Criminal Appeal and confirmed the conviction and sentence passed by the trial Court in C.C.No.586 of 2008 dated 27.07.2012.

7. Aggrieved against the same, the revision petitioner is before this Court with this present Criminal Revision Case.

8. Heard and perused the materials available on record.

9. The learned counsel for the revision petitioner would submit that there was no eye witnesses for the offence of revision petitioner. Further it is also not possible to take two silver plates without the knowledge of the complainant or any of the persons who is residing in the house. Further, the P.W.1 has not produced any bills for the stolen jewels and silver items. There are material contradictions between the deposition of P.W.1 and P.W.2. In further, against the pawn broker P.W.6 no case has been registered, who is the receiver of the stolen property. Receipt issued by P.W.6 was not marked before the lower Court and signature in the receipt was not compared with the signature of the appellant. Further the P.W.1 is the defacto complainant. P.W.2 is having ironing petty shop in the premises of P.W.1. P.W.3 is elder brother of P.W.2. P.W.4 is driver of P.W.1. So all the witnesses are interested witnesses of P.W.1. No independent witnesses were examined before the trial Court. Hence the learned counsel for the revision petitioner prayed to set aside the judgment passed in CrI.A.No.56 of 2012 dated 20.03.2013.

10. Mr.R.Ravichandran, the learned Government Advocate (Criminal Side) would submit that the accused has not denied the status of being a servant maid in the house of P.W.1. The relationship of the revision petitioner/accused with P.W.1 has been candidly admitted by the accused. The revision petitioner/accused has taken a nebulous and bleak plea that the case has been foisted against the accused by P.W.1 as there was a dispute between P.W.1 and the accused as to the salary or wage to be paid by P.W.1 to the accused. The theory that the case has been foisted against the accused due to the above dispute has not at all been proved by the accused/revision petitioner. Further the prosecution has established that the existing relationship between P.W.1 and the accused. Anandan, a laundry man examined as P.W.2 to prove the existing relationship between the accused and P.W.1 and also the nexus of the accused with the house and the Almirah in which the material objects M.O's.1 to 6 were kept by P.W.1. The evidence of P.W.1 coupled with the evidence of P.W.2 and clearly established the nexus of the accused with that of the stolen property which were recovered from P.W.1 in pursuance of a voluntary confession and also some of the stolen properties were recovered from P.W.6 in pursuance of another confession leading to discovery. Hence the Criminal Revision Case may be dismissed.

11. Through the evidence of P.W.1, it has been proved that there was Saraswathi Pooja celebration on 30.10.2010 in the house of P.W.1 and it has also been proved through the evidence of P.W.1 that she tried to open the Almirah to takeout the jewel box and as the key was missing, P.W.1 used the spare key and opened the Almirah to take out the jewel box in order to put the same into the safety locker and P.W.1 found that the jewel box kept in the Almirah was missing and she has given Ex.P.1 complaint with P.W.7 on 19.10.2008 and thereafter P.W.1 was called by P.W.7 and identified all the material objects M.O's.1 to 9 which were being stolen by the accused from the house of P.W.1. The recovery has been proved by the evidence of P.W.5.

12. The prosecution has proved the master and servant relationship between P.W.1 and the accused. Further the prosecution has established that the accused has got access to the Almirah of P.W.1 in which the jewels stolen were kept and also proved that the accused has got access to the key of the Almirah and has further proved that she has stolen material objects M.O's.1 to 9 valuable properties worth Rs.1,60,000/- in the dwelling house of P.W.1 and was keeping some of the stolen properties with her and has pawned some of the gold jewels with P.W.6 and has further proved that P.W.1 has given voluntary confession with P.W.8 leading to recovery of M.O's.1 to 9 and thus the prosecution has proved the guilt of accused beyond all reasonable doubt and thus both the Courts below have rightly recorded conviction against the accused and rightly sentenced to undergo one year rigorous imprisonment and imposed fine of

Rs.5,000/- and in default to undergo three months simple imprisonment.

13. Further this Court does not find any perversity in the judgment of both the courts below. Judgment passed by the learned II Additional District and Sessions Judge, Tiruvallur in CrI.A.No.56 of 2012 dated 20.03.2013 is confirmed, however sentence of one year rigorous imprisonment is modified to six months rigorous imprisonment, to meet the ends of justice. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The II-Additional District and Sessions Judge
Tiruvallur, Poonamallee.

2.Do -thro- The Principal District Judge,
Tiruvallur.

3.The Public Prosecutor
High Court of Madras.

4.The Inspector of Police
Nolambur Police Station
Nolambur, Chennai.

5.The Judicial Magistrate,
Ambattur.

6.Do- thro- The Chief Judicial Magistrate,
Tiruvallur.

7.The Section Officer,
Criminal Section,
High Court, Madras.

+2ccs to Mr.P.Magesh, Advocate, S.R.No.66914

CrI.R.C.No.601 of 2013

AK(CO)

rrs 06/12/2018