

Bail Slip.

The Appellants/Accused 1 & 2 namely 1. Mabu Bash @ Mabu , S/o. Kadhar Basha and 2. Selvam, S/o. Kuppuswamy were directed to be released on bail as per order of this court dated 29.04.2013 (S.C. No. 159/2012) in M.P. 1/2013 in CrI.A. 346/2013 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE P. VELMURUGAN

CrI.Appeal No.346 of 2013

1. Mabu Bash @ Mabu

2. Selvam ...Appellant/Accused 1 & 2

Vs

The Inspector of Police (L & O)
K-6, T.P.Chattram Police Station,
Chennai.

(Crime No.713 of 2008) ... Respondent/Complainant

The Criminal Appeal has been filed under Section 374 (2) Cr.P.C., to call for the records in S.C. No.159 of 2012 on the file of the learned XVII Additional Sessions Judge, Chennai, allow the appeal set aside the judgment of conviction and sentence dated 08.08.2012 and acquit the appellants.

For Appellants : Mr.R.Ganesh Kumar

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

J U D G M E N T

The Appellants herein was charged with offence under Sections 341, 392 of IPC read with sections 397, 336, 427 and 506(ii) of IPC in SC. No.159 of 2012 on the file of the learned XVII Additional Sessions Judge, Chennai.

2. The Charge against the accused was that on 11.12.2008 at about 11.30 a.m., while the defacto complainant/PW1 and her husband/PW6 were walking near R.V.Nagar, V.O.C. Nagar mian Road Junction. At that time, the appellants waylaid them and snatched the gold chain and threatened them. Thereafter, the defacto complainant and her husband gave a complaint to the respondent police. On the basis of the complaint, the respondent police registered a case in Crime No.713 of 2008 for offence under Sections 341, 392 IPC read with Sections 397, 336, 427 and 506(ii) of IPC. The matter was taken up for investigation and final report was also filed.

3. Before the trial Court, the prosecution examined PW1 to PW8, Exhibits P1 to P9 were marked and produced the material object M.O.1 to 3. After full fledged trial, the Appellants were found guilty by the learned XVII Additional Sessions Judge, Chennai in SC. No.159 of 2012, dated 08.08.2012 and convicted the appellants under section 341, 392 IPC read with Section 397 IPC sentenced them to undergo simple imprisonment for a period of 1 month, and convicted them for offence under Sections 392 IPC read with 397 IPC and sentenced them to undergo rigorous imprisonment for seven years and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for one month and acquitted them for offence under sections 336 and 427 IPC. The sentences were ordered to run concurrently. Challenging the said judgment, this criminal appeal has been filed before this Court by the Appellants.

4. The learned counsel for the appellants would submit that the evidence of the victims namely PW1 and PW6 are contradicted each other. PW1 in her evidence has deposed that the gold chain was gifted by her parents during her marriage. On the other hand, PW6/husband has stated that the gold chain was gifted by him. Therefore, it is highly doubtful whether the gold chain was really snatched by the accused, Moreover, there is no eye witness to the incident except the victims. The learned counsel further contended that the trial Court failed to appreciate the evidence in proper prospective. The case of the prosecution is not believable. Therefore, the learned counsel prays to set aside the conviction and sentence imposed on the accused.

5. The learned Government Advocate (Criminal side) would submit that PW1 and PW6 are victims and they have spoken about the incident and also they identified the appellants in police station. Further PW2, PW3, PW4 and PW5 are the shop keepers in and around the place of occurrence and they have clearly stated that two persons snatched the chain. Therefore, the fact that chain was snatched from PW1 is proved.

6. Heard the learned counsel for the appellants as well as the respondent and perused the available records.

7. It is the case of the prosecution that on 11.12.2008 at about 11.30 a.m. While the de facto complainant/PW1 and her husband/PW6 were going near R.V.Nagar. At that time, the appellants waylaid them and snatched the gold chain and threatened them with dire consequences. In order to prove the case of the prosecution as many as eight witnesses have been examined. PW1 and PW6 are husband and wife/victims. Chain belongs to PW1. On 11.12.2008 at about 11.30 a.m., the appellants have snatched the chain and money from the victims at knife point and they left the scene of occurrence immediately. Victims have given a complaint before the police station, on the same day, the appellants were arrested and properties were recovered. Victims identified the accused in the police station. The respondent police produced the appellants before the Court. During the trial, at the time of giving evidence, victims identified the accused and case properties and the prosecution proved the case beyond the reasonable doubt. The learned counsel for the appellants attacked the judgment of the lower Court mainly on two grounds viz., the first ground is that there is a confusion about the person who bought the gold chain. The learned counsel pointed out that when PW1 has stated that gold chain was gifted by her parents, at that time of her marriage. PW6 has stated that the gold chain was gifted by him. This is not material contradiction to go to the root of the prosecution case. Since the dispute is not with regard to decide the ownership of the property. The prosecution proved that the gold chain was snatched from PW1 and it was later procured from the accused, when they were arrested. The second ground is viz., there is no eye witness to the occurrence. The incident took place at about 11.30 a.m. There may not be much crowd during that time. Further, person one who has decided to snatch the chain, he will look for chance when no one is available he will act. The PW2, PW3, PW4 and PW5 are shop keepers in the said locality. On hearing hue and cry of PW1 and PW6, they rushed to the scene of occurrence. They have spoken about the chain snatching incident to that extent, when they were busy with their business the occurrence has taken place they cannot be expected to speak more than that. The fact that the police on the complaint made by PW1 and PW6, collected the gold chain from the custody of accused is well proved. Under the said circumstances, this Court finds that the prosecution has proved its case beyond reasonable doubt.

8. This Court does not find any merit in the appeal, the conviction and sentence imposed on the accused by the trial Court is hereby confirmed and the appeal stands dismissed. The trial Court is directed to secure the custody of the appellants to undergo the remaining period of the sentence, if any.

-s/d-
Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

To

1. The XVII Additional Sessions Judge,
Chennai.
 2. The Inspector of Police (L & O)
K-6, T.P. Chattram Police Station
Chennai
 3. The Superintendent
Central Prison, Puzhal, Chennai.
 4. The Public Prosecutor,
High Court, Madras-104.
- +1 CC to Mr. R. Ganesh Kumar, Advocate sr 60564.

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Crl. Appeal No. 346 of 2013

RV (CO)
SP (24/07/2019)

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