

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE No.3471 of 2018

ORDER:

This Criminal Revision Case is arising out of the Judgment, dated 11.12.2018, in CrI.A.No.7 of 2017 passed by the Special Judge for Trial of Cases under SCs/STs (POA) Act-cum-VIII Additional Sessions Judge, Nizamabad

2. The case of the prosecution is that on 15.08.2014 at about 2:30 PM, while Gujarathi Sulochana (P.W.1) returning to her house after attending her elder brother-in-law's marriage, and when she reached near Swathi Singh Bablu house at Mahalaxmi Colony, the petitioner/A.1 and A.2 came on a motorcycle in opposite direction and snatched her gold chain from her neck and fled away with booty. Thereby, the petitioner/A.1 and A.2 committed the offences punishable under Sections 356 and 379 IPC. After completion of investigation, the police filed charge sheet against the accused persons.

3. The learned Magistrate, on consideration of evidence of P.Ws.1 to 6 and Exs.P.1 to P.13, convicted the petitioner/A.1 for the offence punishable under Section 411 IPC and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.100/-, in default to suffer simple imprisonment for a period of one month. Aggrieved by the said judgment, the petitioner/A.1 has preferred an appeal in CrI.A.No.7 of 2017 and the lower appellate Court confirmed the judgment passed by the trial Court. Challenging the same, the present revision case is filed by the petitioner/A.1.

4. Learned counsel for the revision petitioner would submit that none of the witness has stated about witnessing the incident; that there is no material to connect the petitioner with the present crime and hence, he prays to set aside the impugned judgment.

5. Learned Additional Prosecutor submits that the petitioner is a habitual offender involved in similar cases as observed by the trial Court and, therefore, the trial Court did not extend the benefit under the provisions of the Offenders Act.

6. The evidence of P.W.1 reveals that she has identified the accused during the course of trial as well as test identification parade conducted in jail. She stated that the petitioner/A.1 was a pillion rider and A.2 was rider of the motorcycle. As per her testimony, no doubt, she has not stated the descriptive particulars of the accused and prior acquaintance with them, but, however, she identified the accused in the Court.

7. Learned Additional Public Prosecutor submits that M.O.1 was recovered at the instance of the petitioner/A.1 and the same was identified by P.W.1. Therefore, the trial Court has convicted the accused for the offence punishable under Section 411 IPC and the same was confirmed by the lower appellate Court.

8. In view of the reasons mentioned by the trial Court in convicting the accused, which was confirmed by the first appellate Court, this Court is not inclined to interfere with the concurrent findings recorded by the both the Courts below.

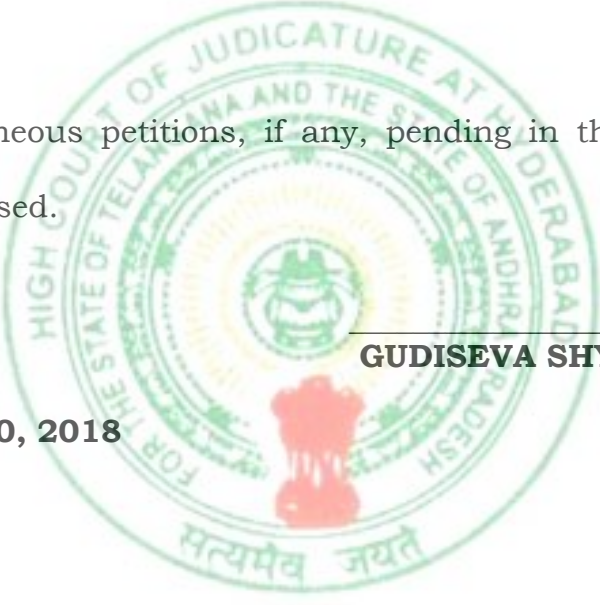
9. Alternatively, learned counsel for the petitioner/A.1 submits that the petitioner has already undergone imprisonment for three

months and, therefore, the sentence of six months may be reduced to a lesser period as the petitioner is having dependents on him.

10. Having regard to the facts and circumstances of the case, the sentence of imprisonment imposed on the petitioner/A.1 by the trial Court, as confirmed by the lower appellate Court, is reduced from six months to five months, while giving set off to the period already undergone under Section 328 Cr.P.C. The petitioner shall undergo remaining part of sentence.

11. With the above observation, the Criminal Revision Case is disposed of.

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



GUDISEVA SHYAM PRASAD, J

DECEMBER 20, 2018
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HON'BLE SRI JUSTICE G. SHYAM PRASAD



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Date:20.12.2018

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