

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE No.3472 of 2018

ORDER:

This Criminal Revision Case is arising out of the Judgment, dated 11.12.2018, in CrI.A.No.8 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 30.09.2014 at about 20:30 hours, while Degan Vaishnavi (PW.1) along with her friend Devika went to Venkateshwara Temple for darshan. After completion of darshan, while P.W.1 was returning to her house, on the way at about 8:30 PM, when she reached near MLA Jeevan Reddy's house, petitioner/A.1 and A.2 came on Suzuki Motorcycle in opposite direction at high speed and snatched away her gold chain from her neck and fled away with the booty and thereby committed the offences punishable under Sections 356 and 379 IPC. The police after completion of investigation, filed charge sheet.

3. The learned Magistrate, on consideration of evidence of P.Ws.1 to 6 and Exs.P.1 to P.14 convicted the petitioner/A.1 for the offence punishable under Section 379 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. On appeal in CrI.A.No.8 of 2017, 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 in the test identification parade conducted in the jail. She stated that the petitioner/A.1 was the 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, however, she identified the accused in the Court.

7. Learned Additional Public Prosecutor submits that M.O.1 was recovered from the possession of A.2. Therefore, the trial Court has convicted the petitioner/A.1 and A.2 for the offence punishable under Section 397 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.

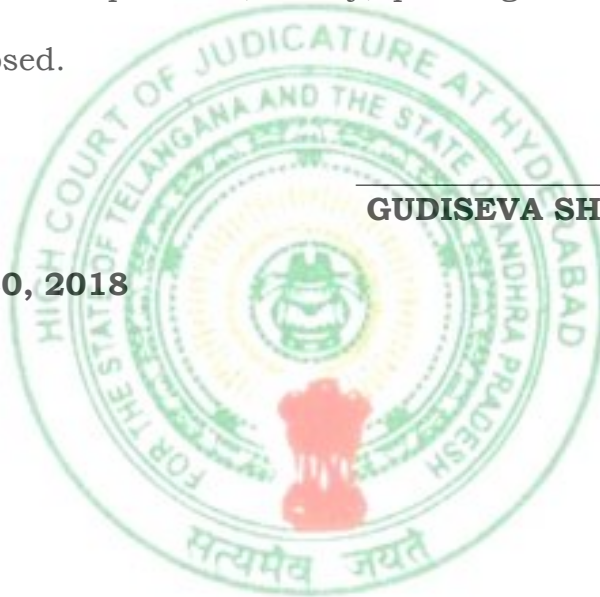
10. Having regard to the facts and circumstances of the case, the sentence of imprisonment imposed on the petitioner/A.1 by the trial Court, as confirmed by the lower appellate Court, is reduced from six months to five months, while giving set off to the period already undergone under Section 328 Cr.P.C.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



CRIMINAL REVISION CASE No.3472 of 2018

Date:20.12.2018

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