

BAIL SLIP

The Appellant/Petitioner/Accused 1 & 2 namely Aarish, S/o.Rahamathullah, aged 23 years and Ababill, S/o. Kadharbasha aged about 23 years were directed to be released on bail as per the order of this Court dated 04.10.2012 in MP.No.1/12 in CrI.R.C No.1231/12.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.R.C.1231 of 2012

1.Aarish

2.Ababill

..Petitioners/Appellant/
Accused 1 & 2

..Vs..

State rep. By
The Inspector of Police,
Sirumugai Police Station,
Coimbatore District.
(Crime.No.9 of 2009)

...Respondent/Respondent
/Complainant

Prayer: This Criminal Revision is under Sections 397 and 401 of Code of Criminal Procedure to set aside the judgment dated 07.06.2012 passed by the learned III Additional Sessions and District Judge, Coimbatore in C.A.No.281 of 2011 confirming the judgment of conviction dated 30.11.2011 in C.C.No.266 of 2009 by the learned Judicial Magistrate, Mettupalayam, Coimbatore.

For Petitioners : Mr.J.Ganesh - No Appearance

For Respondent : Mr.T.Shanmugarajeswaran
Govt. Advocate (CrI.Side)

ORDER

The criminal revision has been filed against the concurrent judgment of conviction made by both the Courts below.

2 The respondent police has registered a case against the revision petitioners in Crime No.9 of 2009 for the offence punishable under Section 379 of IPC and after completing

investigation laid a charge sheet before the learned Judicial Magistrate, Mettupalayam. The learned Magistrate has taken the same on file in C.C.No.266 of 2009 and after trial, found the revision petitioners guilty for the offence punishable under Section 379 of IPC and accordingly by judgment dated 30.11.2011, convicted and sentenced them to undergo rigorous imprisonment for a period of two years each. Challenging the same, the petitioners had preferred an appeal in C.A.No.281 of 2011 before the learned III Additional District and Sessions Judge, Coimbatore. The learned Sessions Judge, after hearing both the parties, by judgment dated 07.06.2012, dismissed the appeal and confirmed the conviction made by the trial Court. Aggrieved against the same, the petitioners are before this Court with the present criminal revision case.

3 When the matter was called on 26.06.2019 for hearing, there was no representation on behalf of the petitioner and hence the matter was directed to be listed today. Even today also there was no representation on behalf of the petitioner from 10.30 a.m. to 3.00 p.m. Since the revision is pending from the year 2012 without any progress and considering the fact that the learned counsel for the petitioner did not appear and argue the matter, as the sentence imposed on the petitioner was suspended, this Court is inclined to dispose of the case on merit.

4 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that P.W.2 is the victim and P.W.1 is the complainant and he lodged a complaint stating that on 11.01.2009, P.W.2, after cleaning the Vinayaga Temple, which is situated in the riverbed and after completing her works, when she was coming back to her home, at about 6.30 a.m. two unknown persons came by Two Wheeler and snatched her chain weighing 4 sovereigns of gold and she informed the same to P.W.1. P.W.1 lodged a complaint and based on the same, case was registered. The respondent police recovered the chain in the presence of P.W.3 and P.W.1 also identified the chain and since she is aged more than 65 years and has examined after two years of occurrence, she could not identify the accused, but however, identified the chain and clearly stated that two persons came and snatched her chain and the chain was recovered from the accused in the presence of P.W.3, who has clearly spoken about the same. Prosecution has proved its case beyond reasonable doubt and both the Courts below had believed the evidence of P.Ws.1 to 3 and convicted the petitioners and there is no reason to interfere with the same.

5 Heard the learned Government Advocate (Crl.Side) and perused the materials available on record.

6 It is the case of the prosecution that on 11.01.2009, P.W.2, after cleaning the Vinayaga Temple, which is situated in the riverbed and after completing her works, when she was coming back to her house, at about 6.30 a.m. two unknown persons came by Two Wheeler and snatched her chain weighing 4 sovereigns of gold and she informed the same to P.W.1. On reading of the entire evidence it reveal that P.W.1 admitted that he gave the complaint before the respondent police and P.W.3 is the witness for recovery mahazar, who has clearly spoken about the arrest and recovery made by the respondent police. The petitioners/accused given confession statement voluntarily. Even though there is contradictions between the evidence of P.Ws.1 & 2, that P.W.1 has stated that he is eye witness and he accompanied with P.W.1, whereas, P.W.2 has stated that she alone came from the temple and the accused persons came and snatched her chain, P.W.1 is the victim and also an eye witness to the occurrence. She has clearly identified the chain and due to age factor and also after a long period of time she was examined before the Court, she could not identify the accused before the Court. However, P.W.3 is the witness for recovery mahazar and confession statement leading to the recovery and has supported the case of the prosecution. This Court finds that there is no reason to discard the evidence of P.Ws.1 to 3 and there is no reason to take a different view. The lower appellate Court, being a final Court of fact finding, had re-appreciated the entire evidence independently and confirmed the conviction made by the trial Court. This Court being a revisional Court cannot re-appreciate entire evidence and substitute its own view on the findings of the Court below, unless there is any perversity exists. There is no sound reason or ground to interfere with the judgment of conviction made by the trial Court and confirmed by the lower appellate Court. There is no merit in the criminal revision case.

7 In the result, the criminal revision case is dismissed as devoid of merit and substance. Trial Court is directed to secure the petitioners/accused to undergo remaining period of sentence, if any.
cgi

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The III Additional Sessions
and District Judge, Coimbatore.

2. The Judicial Magistrate,
Mettupalayam, Coimbatore.
3. The Additional Public Prosecutor,
High Court of Madras.
4. The Inspector of Police,
Sirumugai Police Station,
Coimbatore District.
5. The Chief Judicial Magistrate,
Coimbatore (For information)
6. The Superintendent,
Central Prison,
Coimbatore.
7. The Public Prosecutor,
High Court, Madras.

Crl.R.C.1231 of 2012

Kak (26/09/2019)



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