

Bail Slip

The Petitioner/Appellant/Accused namely Sundaresan S/O Rajagopal was directed to be released on bail as per order of this Court dated 22/02/2012 in CrI.M.P 1 of 2012 in CrI.R.C.148 of 2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :26.03.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Revision Case No.148 of 2012

Sundaresan ... Petitioner/Appellant/Accused

/versus/

State rep.by

Sub-Inspector of Police,
Vishnu Kanchi Police Station,
Kancheepuram.

(Crime No.313 of 2007) ... Respondent/Respondent/Complainant

Criminal Revision Case filed under Section 397 and 401 of the Criminal Procedure Code praying to set aside the judgment passed in C.A.No.34 of 2011 dated 02.01.2012 on the file of the District Sessions Judge, District Court No.II, Kancheepuram, confirming the judgment passed in C.C.No.235 of 2007 dated 25.08.2011 by the learned Judicial Magistrate No.1, Kancheepuram.

For Petitioner :Mr.K.M.Balaji

For Respondent :Mr.T.Shunmuga Rajeswaran
G.A.(CrI.Side)

O R D E R

This revision petition is directed against the concurrent finding of the Courts below holding the accused/petitioner guilty of offence under Section 379 of I.P.C and sentenced him to undergo three months Rigorous Imprisonment.

2. The case of the prosecution is that on 20.07.2007 at about 05.30 p.m., when PW1[Vedavalli] was at her house, the accused called her. When PW-1 came out of her house, the accused demanded money from her. When PW-1 refused, the accused

snatched her chain and fled away from the scene of crime. Hearing alarm of Vedavalli [PW-1], HariKrishnan [PW-2] and Thangaraj [PW-3], who were walking on the road caught hold of the accused. While they were taking the accused to the police station, the accused under the pretext of attending natural call escaped from their clutches. The complaint regarding chain snatching of PW-1 was registered on the same day at about 08.30 p.m. On the next day, the police apprehended the accused and recovered the chain, which was cut into four pieces. The accused and the chain were identified by the defacto complainant. After completion of investigation, the Police has filed final report before the Judicial Magistrate No.1, Kancheepuram.

3. The Judicial Magistrate, after serving the copies of documents to the accused, framed charge under Section 379 of IPC. On the side of the prosecution, 7 witnesses were examined, 4 exhibits and 1 material object were marked.

4. The defacto complainant was examined as PW-1. HariKrishnan and Thangaraj, who apprehended the accused, when he ran from the scene of crime, after snatching the chain were examined as PW-2 and PW-3. PW-4 [Kamaraj] and PW-5 [Munirathinam] were mahazar witnesses for recovery of chain from the accused on 22.07.2007 near Balasubramaniam theatre. PW-6 [Gokulraj, Sub Inspector of Police] attached to Vishnu Kanchi Police Station has received the complaint from PW-1 and registered the First Information Report in Crime No.313 of2006.

5. The learned counsel for the appellant contents that the delay in registering the First Information Report throws doubt about the case of the prosecution and truthfulness in the complaint. PW-1 admits that at the time of occurrence, her house owner was present. The prosecution has failed to examine him as witness, who is the best evidence available. The presence of PW-2 and PW-3 at the time of occurrence and their role of apprehending the accused cannot be believed since they have not spoken about the reason for their presence at that time in the scene of crime. Both of them are neighbours of PW-1. To accommodate her, they have given a false evidence.

6. Contrarily, the learned Government Advocate(Crl.side) would submit that the incident took place between 05.00 p.m and 05.30 p.m on 20.07.2007. The evidence of PW-1 is corroborated with the evidence of PW-2 and PW-3 about the occurrence, which is reflected in the complaint Ex.P1. Later, the accused was arrested by the police. Based on the confession statement, M.O.1-gold chain broken into four pieces was recovered. The material object was identified by PW-1. The prosecution has proved the possession of stolen property with the accused

through the evidence of PW-4 and PW-5. Therefore, the finding of the Courts below is to be confirmed.

7. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.side) appearing for the State.

8. The evidence placed before the Court on consideration has substantially proved the case of the prosecution. The victim PW-1 had deposed about the incident without any infirmity reiterating her version in the complaint. Her evidence is substantially corroborated by PW-2 and PW-3. The doubt in the mind of the Court, after apprehending the accused why the chain was not recovered from him by PW-1, PW-2 or PW-3. The learned Government Advocate(crl.side) would submit that the incident has taken place in a jiff. The accused being a known person to PW-1 had taken advantage and liberty was given to the accused to attend the natural call and ran away. Further, when he was apprehended on the next day, he was found in possession of the chain which was stolen from PW-1. Under Section 114 of the Indian Evidence Act, the presumption against the accused has to be drawn, since he was found in possession of the stolen property.

9. Regarding the delay in the complaint, the Government Advocate (Crl.Side) would submit that the incident has taken place between 05.00 p.m. and 05.30 p.m. On that day, the complaint was registered at 08.30 p.m. There is no inordinate delay in registering the First Information Report.

10. In the said facts and circumstances of the case, this Court finds that the occurrence on 20.07.2007 cannot be an imaginary one and it is baseless to doubt that PW-1 has given a false complaint alleging her chain was stolen by the accused. The fact that the stolen chain recovered from the accused on the next day is a strong incriminating evidence against the accused.

11. The learned counsel appearing for the petitioner/accused would submit that the landlord-tenant dispute has been converted into chain theft case, since there was a wordy quarrel between the accused and PW-1 regarding refund of rental advance. From the deposition, this Court could not find any such suggestion put to the defacto complainant to probabalise the version placed by the counsel. In any event, the accused being known person to PW-1 and erstwhile tenant under her and the antecedent of the accused does not indicate any thing adverse, prompts this Court to modify the sentence from 3 months Rigorous Imprisonment to period already undergone while confirming the conviction.

12. The records indicate that the accused was arrested on 23.07.2007 and released on bail by the trial Court on 13.08.2007, for 20 days he was in jail. Therefore, the said period of imprisonment already undergone by the accused shall be the sentence. Accordingly, this Criminal Revision Case is partly allowed to the extent indicated above. Bail bond, if any executed by the accused shall be cancelled. Consequently, connected Miscellaneous Petition if any is closed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

- 1.The District Sessions Judge, District Court No.II, Kancheepuram.
 - 2.The Judicial Magistrate No.1, Kancheepuram.
 - 3.Sub-Inspector of Police, Vishnu Kanchi Police Station, Kancheepuram.
 - 4.The Chief Judicial Magistrate, Chengalpattu.
 - 5.The Superintendent, Central Prison, Vellore.
 - 6.Public Prosecutor, High Court, Madras.
- +1cc to Mr.K.M.Balaji, Advocate Sr.29337

Cr.R.C.No.148 of 2012

sr[co]
srg 8/5/2019