

**BAIL SLIP**

Revision Petitioner/Accused namely charles Selvaraj, S/o. Iruthayasamy was directed to be released on bail in and by the order of this Court dated 17.08.2011 made in MP(MD)No. 1 of 2011 in Crl.R.C (MD)No. 682 of 2011.

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 12.07.2019**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**CRL.R.C. (MD)No.682 of 2011**

**and**

**MP(MD)No.2 of 2011**

Charles Selvaraj ... Petitioner/Appellant/Accused

Vs.

State represented by,  
The Inspector of Police,  
Thiruvarambur Police Station,  
Thiruvarambur, Trichy District.  
(Crime No 498 of 2010)

... Respondent/Respondent/  
Complainant

**PRAYER :** Criminal Revision Petition filed under Section 397 r/w 401 r/w 482 of Cr.P.C, to call for the records of the learned Additional District Sessions Court (FTC No.1), Tiruchirappalli in C.A.No.45 of 2011, dated 22.06.2011 confirmed the conviction and sentence of imprisonment by the learned Judicial Magistrate No.VI,Tiruchirappalli in C.C.No.270 of 2010, dated 05.04.2011 and set aside the same by allowing this revision petition.

For Petitioner : Mr.A.Joel Paul Antony  
For Respondent : Mrs.S.Bharathy  
Government Advocate (Crl.Side)

**ORDER**

The revision petitioner was implicated in Crime No.498 of 2010, on the file of the Inspector of Police, Thiruvarambur Police Station, for the offence under Section 380 IPC. Final report was filed against the revision petitioner and cognizance for the said offence was also taken in C.C.No.270 of 2010, on the file of the learned Judicial Magistrate No.VI, Trichirappalli. Vide judgment dated 05.04.2011, the revision petitioner was found guilty of the said offence and sentenced to undergo six months rigorous imprisonment. He was also levied with a fine of Rs.1,000/-. On the same, the revision petitioner filed Crl.A.No.45 of 2011, on the file of learned Additional District Judge (FTC No.I), Trichirappalli. The Appellate Court vide judgment dated 22.06.2011,



confirmed the judgment of the learned Trial Judge. Challenging the same, this Criminal Revision has been filed.

2.The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of this petition and wanted this Court to reverse the judgment.

3.Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent submitted that the impugned judgment does not warrant any interference and wanted this Court to dismiss the revision petition.

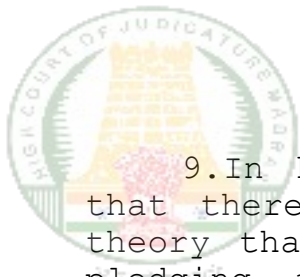
4.I carefully considered the rival contentions and perused the evidence on record.

5.The case of the prosecution is that on 27.09.2010 at about 10.00 a.m., the defacto complainant/P.W.1 Dhayalamoorthy had parked his Indigo Car out side a sweet shop for purchasing some sweets. Before he could return, the revision petitioner had committed theft of gold jewelry, namely, M.O.1 and M.O.2, which was left on the front seat by the defacto complainant.

6.The learned counsel appearing for the revision petitioner submitted that even though the occurrence is said to have taken place on 27.09.2010 at about 10.00 a.m., Ex.P.1/complaint was lodged only on 28.09.2010 at about 12.00.p.m. In Ex.P.1/complaint, the defacto complainant had stated that when he was returning from the sweet shop, he saw a thirty year old man wearing a jeans pant and white shirt closing the left front door of the Car and was walking away fast. Since his suspicion was aroused, P.W.1 searched the hand bag left by him and he found that the jewellery worth Rs.70,000/- was missing.

7.When jewellery worth about Rs.70,000/- was found missing at about 10.00 a.m. on 27.09.2010, the natural reaction would be chase and go after the person whom the defacto complainant had suspected. But the defacto complainant did not appear to have made any such effort. On the other hand, he lodged a complaint before the police only on the next day. This gross delay in lodging the complaint throws considerable doubt on the prosecution case.

8.The defacto complainant was examined as P.W.1. In his cross examination, he admitted that on 10.09.2010 his son's (Karthick) marriage was solemnized. In that connection, the accused/revision petitioner namely., Charles Selvaraj was engaged as the defacto complainant's car driver. Thus there was a prior acquaintance between the accused and the defacto complainant. It is not as if a long time interval had elapsed between the date of engagement and the date of occurrence. It was hardly 17 days. Therefore, the defacto complainant would definitely have remembered the accused. But in the complaint, he has not implicated the accused. Therefore, the prosecution case comes under a serious cloud.



9. In his cross examination, the defacto complainant answered that there was no need for him to take a loan. Therefore, this theory that the jewels in question were taken for the purpose of pledging also goes.

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10. More than anything else a suggestion has been put that on the wedding day the jewellery was lost and in order to fasten the blame on the revision petitioner, the complaint has been lodged. Of course, this suggestion has been denied.

11. What clinches the defence of the accused is that one of the stolen items was said to have been recovered from one Rajmohan a pawn broker. The said Rajmohan was examined as P.W.6. In his chief examination, he would claim that the Sub-Inspector of Police attached to Thiruvarambur Police Station brought the accused to his shop between 11.30 a.m. and 12.00 noon and seized M.O.1 and M.O.2. But then, Ex.P.3 indicates that the seizure of jewellery was at about 07.00 p.m. According to the prosecution case, the accused was arrested at 05.00 p.m. on 28.09.2010. The recovery was made even prior to the arrest of the revision petitioner. All these discrepancies totally undermine the prosecution case. Therefore, I find considerable force in the submission of the revision petitioner's counsel that the revision petitioner, who was engaged as a car driver by the defacto complainant was suspected of theft and had been implicated. The prosecution has not come out with clean hands. The Courts below have not taken into account any of these aspects. In this view of the matter, the judgments of the Courts below are set aside and the revision petition is allowed. The petitioner is acquitted of the charge. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl side)

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/ /2020

Sub Assistant Registrar (CS)

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To

1. The Additional District Sessions Court (FTC No.1),  
Tiruchirappalli.

2. The Judicial Magistrate No.VI, Trichy.

3. The Inspector of Police,  
<https://hcservices.ecourts.gov.in/hcservices/>  
Thiruvarambur Police Station,  
Thiruvarambur, Trichy District.



4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai

copy to

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The Record Keeper, (2 copies)  
Criminal Section,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to Mr.A.JOEL PAUL ANTONY, Advocate ( SR-75514[F] dated  
16/07/2019 )

**CRL.R.C. (MD) No.682 of 2011**  
**and**  
**MP (MD) No.2 of 2011**  
**12.07.2019**

VB(13.01.2020) 4P 8C