

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL REVISION CASE No. 1274 of 2016

JUDGMENT:

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., questioning the judgment, dated 12.05.2016 passed in CrI.A.No.42 of 2015, on the file of the II Additional Sessions Judge (FTC-I), at Khammam, confirming the conviction and sentence of rigorous imprisonment for a period of one year and a fine of Rs.1,000/-, in default, simple imprisonment for two months for the offence under Section 380 of I.P.C. imposed against the revision petitioner/accused in C.C.No.94 of 2011 on the file of the Judicial Magistrate of First Class, Madhira, dated 22.09.2014.

It is the case of the prosecution that on 21.04.2011, at about 2.00 p.m. at Bhavani Jewellery shop, Madhira Town, the accused, who is the revision petitioner herein, committed theft of purse of P.W.1, containing cash of Rs.11,500/-. The revision petitioner was tried for the offence punishable under Section 380 of I.P.C. The prosecution has examined P.Ws. 1 to 8 and got marked Exs.P1 to P8 and M.O.1 to prove the guilt of the accused. Neither oral nor documentary evidence was adduced on behalf of the accused. On a perusal of the entire evidence,

both oral and documentary, the trial Court found the revision petitioner/accused guilty of the offence under Section 380 of I.P.C. and accordingly convicted and sentenced him as stated supra.

In an appeal preferred by the revision petitioner-accused against the said conviction and sentence, the learned II Additional Sessions Judge (FTC-II), Khammam, confirmed the conviction and sentence recorded by the trial Court. Aggrieved by the same, the revision petitioner/accused preferred this Criminal Revision Case.

Heard learned counsel for the revision-petitioner/accused and learned Additional Public Prosecutor appearing for the respondent-State

It is mainly contended by the learned counsel for the revision petitioner/accused that the learned Additional Sessions Judge erred in placing reliance on the highly interested and discrepant testimony of P.Ws.7 and 8. The learned Judge should have seen that P.Ws.3 to 6 have not supported the case of the prosecution and there are no ingredients to constitute the alleged offence. It is also submitted that there are no eye witnesses to the incident and there is no corroboration with the evidence of P.W.1. P.W.1 lodged the complaint on the next

day of the offence and there is a delay in lodging the complaint. The panch witnesses, in whose presence the alleged recovery was made, did not support the prosecution case and they have turned hostile. Hence, recovery of amount from the revision petitioner/accused is not proved.

Learned Additional Public Prosecutor would submit that there is no illegality or irregularity in the judgments of both the Courts below.

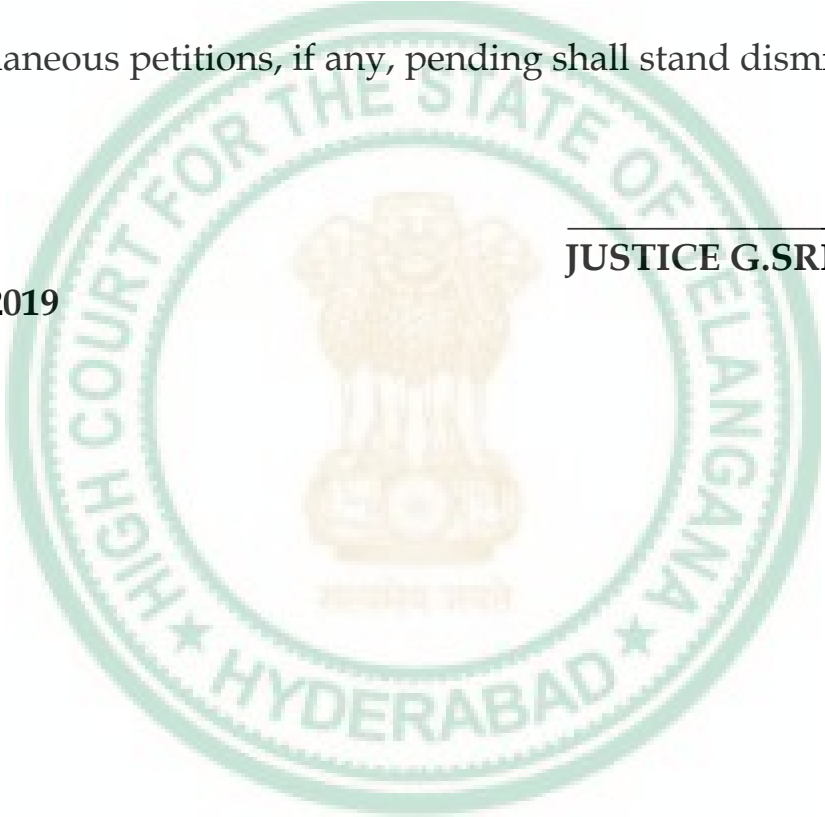
A perusal of the entire evidence on record, this Court is of the view that the trial Court as well as the appellate Court has given sufficient and cogent reasons in convicting the revision petitioner/accused. Therefore, no interference is warranted as far as conviction is concerned, but with regard to the quantum of sentence, it may be mentioned that the offence took place in the year 2011 and almost 8 years have passed and during this period the revision petitioner/accused must have suffered great hardship in attending the proceedings of the Court for what he did and that he had also undergone imprisonment for a period of 45 days during the course of investigation, trial and subsequent to the dismissal of the Criminal Appeal.

In the aforesaid circumstances and in order to meet the ends of justice, it would suffice to reduce the sentence of

rigorous imprisonment of one year to that of the period already undergone by the revision petitioner/accused, while maintaining the sentence of fine amount imposed against the revision petitioner/accused for the offence punishable under Section 380 of I.P.C.

With the above modification in the sentence of imprisonment, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.

09-12-2019
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A large, faint, circular watermark seal of the High Court for the State of Telangana, Hyderabad, is centered in the background. It features the state emblem of India in the center, surrounded by the text "HIGH COURT FOR THE STATE OF TELANGANA" and "HYDERABAD" at the bottom, separated by stars.
JUSTICE G.SRI DEVI