



Bail Slip

The Appellant/Accused (1) Kalaiselvan S/o Manivel, (2) Prakash @ Selva Prakash S/o Anbalagan, were released on bail (Accused not in Jail) granted order dated 26.10.2015 made in MP(MD) 1/2015 in Crl.R.C (MD) 512/2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.R.C. (MD)No.512 of 2015

and

M.P. (MD)No.2 of 2015

1.Kalaiselvan

2.Prakash @ Selva Prakash

... Petitioners / Appellants /
Accused Nos.1 and 2

-vs-

State Represented by,
The Inspector of Police,
Thanjavur South Police Station,
Thanjavur, Thanjavur District.
(Crime No.284 of 2011)

... Respondent / Respondent /
Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records and set aside the judgment dated 24.08.2015 passed in Crl.A.No.86 of 2013 on the file of the learned Additional District & Sessions Judge, (Special Judge for EC Act Cases), Thanjavur, Thanjavur District, confirming the conviction and sentence imposed upon the petitioner in C.C.No.274 of 2011 on the file of the learned Judicial Magistrate No.1, Thanjavur, Thanjavur District, dated 30.10.2013 and acquit the petitioners.

For Petitioners : Mr.A.Thiruvadi Kumar

For Respondent : Ms.Bharathi,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Petition is filed by the accused persons against the concurrent finding of the conviction passed by the Lower Court as well as by the Lower Appellate Court.

<https://hcservices.ecourts.gov.in/> For the sake of convenience, the parties are referred to



as per their rank before the trial Court.

3.The case of the prosecution is that on 16.07.2011, the accused 1 and 2 at about 09.15 p.m., snatched 7 grams gold chain worth about Rs.6,000/- from one Radhika, P.W.1 who came from the Rohini Hospital. At that time, the first accused drove the two wheeler and the second accused is the pillion rider. Therefore, P.W.1 lodged a complaint before the law enforcing agency (P.W.9), which is marked as Ex.P.1 and P.W.9 has registered the First Information Report under Ex.P.8 for the offence under Section 392 IPC.

4.The accused persons were furnished with the relied upon documents under Section 207 Cr.P.C. and the case was committed to the learned Judicial Magistrate No.1, Thanjavur, Thanjavur District, for trial and after framing charges under Section 392 IPC., when the accused 1 and 2 were questioned, they pleaded not guilty.

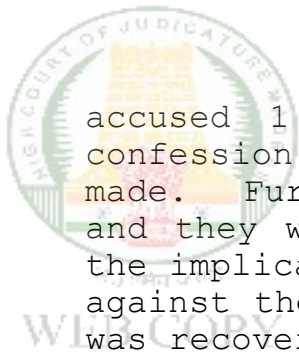
5.In order to prove the prosecution case, P.W.1 to P.W.9 were examined and Exs.P.1 to P.10 were marked as well as M.O.1 was marked. When the accused 1 and 2 were questioned under Section 313 Cr.P.C. about the incriminating circumstances available against them, they denied the same as false. Neither any oral nor any documentary evidence was marked on the side of the defence. The trial court, after hearing either side and after considering the materials, both oral and documentary evidence on record, convicted and sentenced the accused persons, as stated hereunder:-

Section	Sentence
U/s 379 IPC	Convicted and sentenced to undergo rigorous imprisonment for a period of one (1) year

The sentence of imprisonment was ordered to run concurrently.

6.Aggrieved by which, the accused 1 and 2 have filed an appeal in Crl.A.No.86 of 2013 before the Lower Appellate Court. The Lower Appellate Court has also confirmed the conviction and sentenced granted by the Lower Court. Against which, the present Criminal Revision Case is filed.

7.The learned counsel appearing for the petitioners would submit that both the petitioners are innocent. In fact, the Lower Court and the Lower Appellate Court have convicted the accused 1 and 2 on the sole ground that the recovery was proved. In order to prove the recovery, one Veerasamy, was examined as P.W.6 and he confirmed that the jewel was sold by the accused persons. Further, P.W.1 also identified the chain snatched by the accused persons. Further, the date of occurrence is 16.07.2011 and the First Information Report is registered on 16.07.2011. However, the



accused 1 and 2 were secured on 24.08.2011 and based on the confession statement given by the accused 1 and 2, the recovery was made. Further, the petitioners were not arrested on the same day and they were implicated in some other case. Taking advantage of the implication in some other case, this false case has been foisted against them. Further, in order to prove the recovery, no document was recovered from P.W.6 and no identification parade was conducted. In fact, P.W.1 has not identified the accused persons and conducting identification parade is mandatory. Hence, he prayed for allowing this case.

8.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that admittedly the chain of P.W.1 was snatched by the second accused, who accompanied with the first accused and the first accused is the rider of the motorcycle and the second accused is the pillion rider. Further, after securing the accused persons, based on the confession statement, the stolen jewel was recovered from P.W.6 and the jewel was identified by P.W.1. Therefore, the circumstantial evidence is sufficient to convict the accused persons. Hence, she prayed for dismissal of this case and the conviction order passed by the Courts below need not be interfered with by this Court.

9.Heard the learned counsel appearing for the petitioners, the learned Government Advocate (Crl.Side) appearing for the respondents and perused the materials available on record carefully.

10.It is the case of the prosecution that on 16.07.2011, the second accused has snatched the 7 grams gold chain of P.W.1 worth about Rs6,000/- with the help of the first accused and P.W.1 has not identified the accused 1 and 2. However, the accused 1 and 2 were secured by the law enforcing agency and based on the confession statement given by the accused 1 and 2, the recovery was made. Further, P.W.1 identified the stolen articles. Hence, the prosecution case is clearly established by examining P.W.1 and P.W.6, further, the investigating officer's evidence was corroborated with the evidence of P.W.6.

11.It is well settled that the concurrent finding given by the Courts below cannot be interfered with in mechanical manner, unless any perversity is established before this Court. In the present case, the petitioners have not established any perversity. In the absence of any perversity, this Court do not find any error in the judgment of the Courts below. Hence, the concurrent judgment and conviction of the Courts below is confirmed. The trial Court shall take steps to secure the accused / appellants to commit them in prison to serve out the remaining period of sentence. Bail bond executed by the appellants and the sureties shall stand cancelled. The period of sentence already undergone by the appellants shall be set off under Section 428 IPC.



12. Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petition is closed.

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// True Copy //

Sd/-

Assistant Registrar (CO)

/ /2020

Sub Assistant Registrar(CS)

Myr

To

1.The Additional District & Sessions Judge,
(Special Judge for EC Act Cases),
Thanjavur, Thanjavur District,

2.The Judicial Magistrate No.1,
Thanjavur, Thanjavur District.

3.The Inspector of Police,
Thanjavur South Police Station,
Thanjavur, Thanjavur District.

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

+1 CC to M/s.A.THIRUVADIKUMAR, Advocate (SR-11626[F] dated 13/03/2020)

CRL.R.C. (MD) No. 512 of 2015

13.03.2020

(2/2)

AP(09/09/2020) 4P 6C