



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.R.C.No.1081 of 2019 and
Cr1.M.P.No.14657 of 2019

Manikandan @ Manibharathi

...Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Neyveli Township Police Station,
Block 8, Neyveli.

...Respondent/Respondent

Criminal Revision case filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the order dated 10.11.2017 passed by the IIIrd Additional District and Sessions Court, Vridhachalam, in Cr1.A.No.43 of 2017 confirming the order dated 21.04.2017 passed by the learned District Munsif cum Judicial Magistrate Neyveli, in S.C.No.136 of 2015.

For Petitioner : Mr.T.M.Mano for
M/s.EAadith Vijay

For Respondent : Mr.S.Sugendran
Govt. Advocate (Cr1.Side)

ORDER

The criminal revision case has been filed against the concurrent judgment of conviction and sentence dated 10.11.2017 passed by the IIIrd Additional District and Sessions Court, Vridhachalam, in Cr1.A.No.43 of 2017 confirming the order dated 21.04.2017 passed by the learned District Munsif cum Judicial Magistrate Neyveli, in S.C.No.136 of 2015.



2 Case of the prosecution is that on 14.02.2015 at about 11.00 a.m., when the defacto complainant P.W.1 went to a Petty Shop near Vadakuthu Bus Stop, the petitioner/accused waylaid him and on the knife point, the petitioner/accused robbed cash of Rs.1000/-, one Cell Phone and a Watch by threatening with dire consequences and when the witnesses tried to catch him, the petitioner/accused threatened them by showing the knife and the two Police officials, who were on the duty at the time of occurrence, chased and caught the petitioner/accused. Thereafter on the basis of the complaint lodged by P.W.1, the present case was registered against the petitioner.

3 After completing investigation, the respondent police laid a charge sheet against the petitioner for the offence under Sections 341, 398 and 394 of IPC before the learned District Munsif cum Judicial Magistrate, Neyveli, which was taken on file in P.R.C.No.19 of 2015. The learned District Munsif cum Judicial Magistrate, Neyveli, since the case was triable only the Court of Session, committed the case to the learned Principal District and Sessions Judge, Cuddalore, which was taken on file in S.C.No.136 of 2015 and subsequently the same was made over to the learned Assistant Sessions Judge, Neyveli,. The learned Assistant Sessions, on completion of trial and hearing of arguments advanced on either side, by judgment dated 21.04.2017, acquitted the petitioner for the offence under Section 398, but, convicted the petitioner and sentenced him to pay a fine of Rs.1000/-, in default, to undergo rigorous imprisonment for a period of one month for the offence under Section 341 and sentenced to undergo rigorous imprisonment for a period of seven years with fine of Rs.500/-, in default, to undergo rigorous imprisonment for a further period of 15 days for the offence under Section 394 of IPC.

5 Aggrieved against the judgment of conviction and sentence, the petitioner had filed an appeal in C.A.No.43 of 2017. The learned III Additional District and Sessions Judge (FAC), Vridhachalam, after hearing both the parties, by, judgment dated 10.11.2017, confirmed the conviction and sentence passed by the trial Court, against which, present revision has been filed by the petitioner.



6 The learned counsel appearing for the petitioner would submit that prosecution has not produced any medical certificate or wound certificate of the injured witness and hence medical evidence does not support the case of the prosecution. Both the trial Court as well as the appellate Court had failed to see that the ingredients of Section 394 of IPC are not made out and the offence alleged to have committed by the petitioner is not all falls under Section 394 of IPC and it comes only under Section 392 of IPC. Hence convicting the petitioner for the offence under Section 394 of IPC is not sustainable under the eye of law and the same is liable to be set aside.

7 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that P.W.1 is the eye witness as well as the injured witness and he clearly deposed that the petitioner is the one who committed robbery on the knife point and when P.W.3, the police official tried to catch him, the petitioner caused cut injuries on him. P.W.12, the Doctor, has clearly spoken about the injuries sustained by the witnesses, which corroborates with the evidence of P.W.1. Prosecution has clearly proved the charges against the petitioner and the trial Court as well as the lower appellate Court have rightly appreciated the evidence of prosecution witnesses and convicted the petitioner, which does not call for any interference of this Court.

8 Heard the learned counsel appearing for the petitioner and the Government Advocate (Crl.Side) appearing for the respondent and perused the materials available on record.

9 This Court, as a revisional Court, cannot exercise power of appellate Court and re-appreciate entire evidence, it can only see whether there is any perversity in appreciation of evidence by the Courts below, while deciding the case.

10 On a perusal of the records, it reveal that P.Ws.1 is injured witness and also an eye witness and he has clearly spoken about the offence of robbery committed by the petitioner. From the evidence of independent witnesses P.Ws.2, 3, 7 and 8 prosecution has clearly proved the offence committed by the petitioner. A combined reading of the evidence of P.Ws.1,



2, 3, 7, 8, 12 and the medical records Ex.P11 and the material objects, this Court is of the view that prosecution has clearly established its case beyond all reasonable doubts. The trial Court has rightly convicted the petitioner and the lower appellate Court, being a final Court of fact finding, had independently re-appreciated the entire evidence and confirmed the conviction recorded by the trial Court. This Court does not find any perversity in the judgment of both the Courts below and hence the same does not call for any interference. Further, there is no mitigating circumstances to consider the quantum of sentence.

11 In the result, the conviction and sentence passed by the Courts below is hereby confirmed. The criminal revision is dismissed and the trial Court is directed to secure the petitioner to undergo remaining period of imprisonment, if any. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

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Sub Assistant Registrar

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To

1. The 3rd Additional District and Sessions Judge, Vridhachalam.
2. The District Munsif cum Judicial Magistrate Neyveli.
3. The Inspector of Police, Neyveli Township Police Station, Block 8, Neyveli.
4. The Public Prosecutor, High Court of Madras.

+1CC to M/s.E.Aadith Vijay, Advocate, SR.No. 44505

CrI.R.C.No.1081 of 2019 and
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RGN(CO)

B.VC (28/10/2021)