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CRL.R.C.No.282 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.R.C.No.282 of 2018

Manikandan

... Petitioner

Vs.

State rep. by the Inspector of Police,
Perambalur Police Station,
Perambalur District.
(Crime No.269 of 2015)

... Respondent

Prayer: The Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. praying to call for the records and allow the Criminal Revision by set aside the judgment dated 02.02.2018 in C.A.No.3 of 2017 before the Principal Sessions Judge, Perambalur, partly modified the judgment in C.C.No.189 of 2015 on the file of the Judicial Magistrate Court, Perambalur, by judgment dated 13.03.2017.

For Petitioner : Ms.Sumithra Vasudevan

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This Criminal Revision has been filed directed as against the judgment passed in C.A.No.3 of 2017 dated 02.02.2018 on the file of the Principal



CRL.R.C.No.282 of 2018

Sessions Judge, Perambalur, thereby modifying the sentence passed in

WEB C.C.No.189 of 2015 dated 13.03.2017 on the file of the Judicial Magistrate Court, Perambalur, thereby convicting the petitioner for the offence under Section 393 IPC.

2. The case of the prosecution is that on 26.03.2015, at about 4.00 a.m, while PW1 was sleeping in a cot outside her house, the accused came and committed robbery of her "Tahali Chain". Immediately, she shouted and informed to PWs4 and 5, and thereafter, with the help of police persons, the accused was caught hold and came to be registered FIR. After completion of investigation, the respondent filed a final report and the same has been taken cognizance for the offence under Section 393 IPC.

3. On the side of the prosecution, PWs1 to PW8 were examined as witnesses and Exs.P1 to P6 were marked as exhibits and on the side of the petitioner no one was examined and no document was marked.

4. On perusal of oral and documentary evidence, the trial Court found the petitioner guilty for the offence under Section 393 IPC and sentenced him to undergo two years rigorous imprisonment and also imposed fine of



CRL.R.C.No.282 of 2018

Rs.1000/-. Aggrieved by the same the petitioner preferred an appeal and the same was partly allowed while the conviction was confirmed, the sentence was modified by reducing it to one year. Hence the revision.

5. The learned counsel for the petitioner would submit that the PW1 deposed that she signed a report at 10.00 a.m in the Police Station, the PW8 deposed that PW1 came to the Police Station at 5.30 a.m and lodged complaint. There was contradiction between them in respect of lodgment of the complaint. There were two versions adduced by the prosecution, one version through the evidence of PW1 to 3 and another version through evidence of PWs4 and PW5 that they caught hold of the accused and handed over him to police. Therefore, the arrest of the accused is doubtful and benefit of doubt should go to the accused. The time of occurrence also differs from the evidence of PWs4 and 5 and therefore, the prosecution failed to prove its case beyond any reasonable doubt. The learned counsel for the petitioner further submitted that even according to the prosecution, the petitioner only attempted to commit robbery and immediately, he was caught hold and that he has no previous antecedents.



6. The learned Government Advocate (Crl. Side) would submit that in order to prove the case of the prosecution, PWs4 and 5 were examined. They categorically proved the prosecution case beyond any reasonable doubt. He would submit that the petitioner is not involved in any case except the present one.

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

8. On perusal of deposition of PW1, she categorically deposed that while she was sleeping outside her house, the petitioner came near to her and after closing her mouth, he attempted to take away her "Thali chain". Immediately, she shouted and informed to PWs4 and PW5. PW3 had deposed that when PW1 shouted, he rushed to the place of occurrence and chased the accused. It is also corroborated by PW5. There was small contradiction with regard to time. It would not affect the case of the prosecution. Therefore, the trial Court rightly convicted the petitioner for the offence under Section 393 IPC.

9. Considering the initiatives of the petitioner, the trial Court reduced the sentence from two years to one year. Therefore, the Court below rightly sentenced the petitioner to undergo one year imprisonment. Further, in so far as



CRL.R.C.No.282 of 2018

the sentence is concerned, the petitioner had already undergone more than a period of one month. That apart, the respondent stated that so far, the petitioner was not involved in any case and he has no previous antecedents. Therefore, this Court is inclined to reduce the sentence alone by confirming the conviction for the offence under Section 393 IPC.

10. Accordingly, the conviction imposed on the petitioner is hereby confirmed and in so far as the sentence is concerned, it is reduced upto the period which he had already undergone and a sum of Rs.25,000/- is hereby awarded as compensation payable by the petitioner herein by way of Demand Draft to PW1. He should produce the acknowledgment before the trial Court within a period of four weeks from the date of receipt of a copy of this order, failing which, the sentence imposed by the first Appellate Court would vest therewith and the respondent is directed to secure the petitioner and proceed in accordance with law to undergo remaining sentence.

11. Accordingly, the Criminal Revision case is partly allowed.

17.10.2022

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Index : Yes / No

Speaking / Non Speaking order

G.K.ILANTHIRAIYAN, J.



WEB COPY



CRL.R.C.No.282 of 2018

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To

- 1.The Principal Sessions Judge,
Perambalur.
2. The Judicial Magistrate Court,
Perambalur.

Crl.R.C.No.282 of 2018

17.10.2022