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Crl.R.C.No.283 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM:

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

Crl.R.C.No.283 of 2018

and

Crl.M.P.Nos. 3236 & 3237 of 2018

Marimuthu

....

Petitioner

Vs

The State
rep. By The Inspector of Police,
Nasrethpet Police Station,
Chennai – 600 123.

....

Respondent

Prayer: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to set aside the judgment passed in C.A.No.26 of 2013 dated 09.08.2017 by the learned 2nd Additional District and Sessions Judge, Poonamallee, confirming the judgment passed by the learned Judicial Magistrate Court No.1, Poonamallee in C.C.No.314 of 2010 dated 22.03.2013.

For Petitioner : Mr.B.Thirumalai

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



ORDER

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This Criminal Revision case has been filed as against the judgment dated 09.08.2017 passed in C.A.No.26 of 2013 by the II Additional District and Sessions Judge, Poonamallee, thereby confirming the Judgment dated 22.03.2013 passed in C.C.No.314 of 2010 by the Judicial Magistrate Court No.I, Poonamallee, thereby convicted the petitioner for the offence punishable under Section 379 of IPC.

2. The case of the prosecution is that on 31.07.2010, the vehicle, bearing Registration No.TN-10-D-4403 Mahindra Van, owned by the defacto complainant was parked opposite to Ultop Shoe Company adjacent to the compound wall. While being so, the accused persons had stolen the said vehicle worth about Rs.6,00,000/-. On receipt of the complaint, the respondent registered an FIR in Crime No.177 of 2010 for the offence under Section 379 of IPC. After completion of investigation, the respondent filed final report as against four accused persons.

3. On the side of the prosecution, he examined P.Ws.1 to 8 and marked Exs.P1 to P10. The prosecution has also produced M.Os.1 and 2. On the side of the accused, no one was examined and no document was marked.



4. On perusal of the oral and documentary evidence, the Trial Court found the petitioner guilty for the offence punishable under Section 379 of IPC and he was sentenced to undergo six months simple imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one month simple imprisonment. Aggrieved by the same, the accused persons preferred appeal and the same was also dismissed and the order of the Trial Court was confirmed. Hence, this revision.

5. The petitioner raised grounds that the complaint was lodged only after three days of missing of his vehicle. The complaint was lodged on 02.08.2010, whereas the vehicle was missing from 31.07.2010. The prosecution failed to state any reason for the delay in lodgment of complaint. There is a specific evidence as against the petitioner to attract the offence under Section 379 of IPC. All the witnesses are interested witnesses and as such, the prosecution failed to prove their case.

6. A perusal of the records reveals that P.W.1 lodged a complaint and the same was received by P.W.8, who registered an FIR. The complaint was lodged on 02.08.2010 since the defacto complainant searched the vehicle for two days and thereafter lodged a complaint. P.W.1 deposed that when he parked the vehicle on 31.07.2010, it was



found missing. Thereafter, he searched the vehicle and he was informed that the vehicle was found by the respondent. P.W.2 deposed that he along with P.W.1 were driving the vehicle on behalf of Ultop Shoe Company, it was found missing from 31.07.2010. It is also corroborated by the evidence of P.W.4. P.W.5 deposed that on 03.08.2010, the respondent enquired to A1 to A4. Their confession statements were recorded and they categorically admitted the guilty. Therefore, the Trial Court rightly convicted the petitioner and the same was confirmed by the First Appellate Court.

7. It is also seen that the other co-accused persons filed Crl.R.C.No.1594 of 2017 and the same was also dismissed and this Court confirmed the findings of conviction and sentence imposed by the Courts below. However, this Court invoked the provision under Section 4 of the Probation of Offenders Act and released the co-accused on probation of good conduct, on each of them executing a bond for a sum of Rs.10,000/- with one surety for a like sum. However, this Court is not inclined to invoke the provision under Section 4 of the Probation of Offenders Act, since, the petitioner had specific overt act and the prosecution proved its case beyond any reasonable doubt.



CrI.R.C.No.283 of 2018

8. In view of the above, this Court finds no infirmity or illegality in the order passed by the Courts below. Accordingly, this Criminal Revision case stands dismissed. Consequently, connected miscellaneous petitions are closed.

18.10.2022

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
Lpp

To

1. The II Additional District and Sessions Judge,
Poonamallee,

2. The Judicial Magistrate No.I,
Poonamallee.

3. The Inspector of Police,
Nasrethpet Police Station,
Chennai – 600 123.

4. The Public Prosecutor,
High Court, Madras.



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Crl.R.C.No.283 of 2018

G.K.ILANTHIRAIYAN. J.

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Crl.R.C.No.283 of 2018

18.10.2022