



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.RC.No.855 of 2021

Crl.MP.Nos.12145 and 12147 of 2021 and 478 of 2022

M.Saravanan

...Petitioner

Vs.

State by the Inspector of Police,
Shevapet Police Station,
Salem District
(Cr.No.322/2018)

...Respondent

PRAYER: Criminal Revision is filed under Sections 397 & 401 of Criminal Procedure Code to call for the entire records in connection with CA.No.58 of 2020 on the file of the Principal Sessions Judge, Salem and set aside conviction and sentence imposed by the Principal Sessions Judge, Salem in CA.No.58 of 2020 dated 21.04.2020, confirming the conviction of 2years simple imprisonment passed by the Judicial Magistrate No.III, Salem by Judgement dated 07.03.2020 in CC.No.102 of 2018.

For Petitioner : Mr.V.Parthiban

For Respondent : Mr.S.Sugendran, GA (Crl.side).

ORDER

(The case has been heard through video conference)

This revision has been filed against the order passed by the Principal Session Judge, Salem made in Crl.A.No.58 of 2020 dated 21.04.2021 dismissing the appeal and by confirming the judgment of conviction and sentence passed by the Judicial Magistrate No.III, Salem in CC.No.102/2018 dated 21.04.2021.

2. The brief facts of the case is as follows :-

The Inspector of Police, Shevapet Police Station has lodged a final report against the petitioner and two other accused before the Judicial Magistrate No.III, Salem, alleging that on 24.07.2018 at 9.00am, the accused had stolen the two wheeler bearing Registration No.TN30 BJ 1382 belonging to the defacto complainant/Sasikala which was parked in front of her house. The case was taken up for trial in CC.No.102/2018 on the file of the Judicial Magistrate No.III, Salem and on



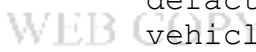
appearance of the petitioner and other accused, the trial Court furnished copies of the relevant documents under Section 207 Cr.PC and the trial Court framed charges against the petitioner and the other accused for the offences under Section 379 IPC. The petitioner and the other accused pleaded not guilty and sought to be tried in order to substantiate the charges against the accused.

3. On the side of the prosecution PW1 to PW8 were examined and marked Ex.P1 to Ex.P14 and MO.1. was produced on the side of the prosecution. On the side of the accused no witnesses was examined and no documents was marked.

4. After analysing the evidence let in on the side of the prosecution and after hearing both sides the Judicial Magistrate III, Salem found the petitioner and the other accused guilty for the offence under Section 379 IPC and convicted and sentenced them to undergo simple imprisonment for two years. As against the judgment of conviction and sentence, the petitioner/A1 filed a separate appeal in CA.No.58/2020, the appellate Court had dismissed the appeal by judgment dated 21.04.2021 and by confirming the judgment of conviction and sentence. As against the said judgment, the present revision has been filed by the petitioner.

5. The learned counsel for the petitioner at the outset would submit that the petitioner is charged and found guilty for the offence under Section 379 IPC and convicted and sentenced to undergo two years simple imprisonment. During investigation he was arrested and remanded in judicial custody for 15days. The petitioner and the defacto complainant are neighbours, the petitioner is suffering from mental disorder and Manic episode disease and taking into consideration the plight of the petitioner's Psychiatrist condition for the past two years, the defacto complainant/owner of the property has agreed to compound the offence and she has also filed necessary compounding application along with Notorised affidavit. He would submit taking into consideration the mental condition of the petitioner and that the offence is also compoundable in nature, he would pray that the petitioner may be permitted to compound the offence.

6. The learned Government Advocate (crl.side) would submit that the petitioner along with two other accused were charged for the offence under Section 379 IPC for having committed theft of the two wheeler belonging to the petitioner. The trial Court found that the petitioner and the co-accused guilty for the offence under Section 379 IPC and convicted them. The appeal filed by the petitioner was also dismissed by the appellate Court. However, he would on instruction from the respondent would submit that the petitioner is suffering from psychiatric ailment and the respondent/defacto complainant has also filed an application alongwith notorised affidavit seeking to compound the offence.



8. Pursuant to the directions issued by this Court, the defacto complainant/Sasikala w/o.Rajesh/PW1/owner of the vehicle appeared before this Court through video conference. This Court enquired the defacto complainant and she submitted that the petitioner is her neighbour and he is known to her and he is suffering from psychiatric problem and she has also got back her two wheeler, she further submit that taking into consideration the illness of the petitioner and the age, she had decided to compound the matter with the petitioner and she would pray that the compounding application may be allowed.

10. In the result, in view of the order passed in CrI.MP.No.478 of 2022, this criminal revision is allowed and the judgment of conviction and sentence passed in CrI.A.No.58 of 2020 dated 21.04.2021 by the Principal Sessions Judge, Salem confirming the judgment of the Judicial Magistrate No.III, Salem made in CC.No.102/2018 dated 07.03.2020 stands set aside. Fine amount if any paid by the petitioner shall be refunded to him, bail bond, if any, executed by the petitioner shall stand cancelled. and

Sd/-

//True Copy//

tsh

To

1.The Principal Sessions Judge,
Salem.

2.The Judicial Magistrate No.III,
Salem.

3.The Inspector of Police,
Shevapet Police Station,
Salem District.



4.The Public Prosecutor,
High Court, Madras.

5.The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.M.Mohamed Saifulla, Advocate SR. No.4782

Crl.RC.No.855 of 2021

CP (CO)

PR (08/02/2022)