



Crl.R.C.No.697 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2022

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.697 of 2021

Karthick @ Dilli Karthick	...	Petitioner
	/vs/	
The State Rep.by the Sub Inspector of Police, V1, Villivakkam Police Station, Chennai – 49. (Crime No.442/2010)	...	Respondent

Prayer : Criminal Revision Case has been filed under Sections 397 & 401 of Criminal Procedure Code to set aside the order dated 01.09.2021 made in Criminal Appeal No.76 of 2013 on the file of IV Additional City Civil and Sessions Court, Chennai as well as the order dated 07.03.2013 made in C.C.No.4901 of 2010 on the file of X Metropolitan Magistrate, Egmore, Chennai – 8 by allowing the present Criminal Revision Petition.

For Petitioner	...	Mr.R.Ramesh
For Respondent	...	Mr.V.Meganathan Government Advocate (Crl.side)



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JUDGMENT

The Criminal Revision Case has been filed to set aside the order dated 01.09.2021 made in Criminal Appeal No.76 of 2013 on the file of IV Additional City Civil and Sessions Court, Chennai as well as the order dated 07.03.2013 made in C.C.No.4901 of 2010 on the file of X Metropolitan Magistrate, Egmore, Chennai – 8.

2.The petitioner/first accused was charged and prosecuted under Sections 379 and 201 IPC by the Sub Inspector of Police, V1, Villivakkam Police Station, Chennai – 49.

3.The case of the prosecution is that the complainant/PW1 Deenadayalan is working in delivery section as incharge in KUN Motorcycle Pvt., Ltd., at No.33, 1st Main Road, Kasthuribai Nagar, Adyar, Chennai. He was entrusted with the possession of his company Santro Hyundai Car bearing registration No.TN-07-AL-9628 for the purpose of transporting men and accessories. On 15.05.2010 at about 9.00 p.m., the



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complainant Deenadayalan PW1 parked his company car with spare parts viz., 12 Watt Batteries (21 Nos), 12 Watt 7 AM Batteries (3 Nos), Two Wheeler Petrol Tank (1 No), Head lite (1 No.), Rear cover (1 No.) and Mud-cord (1 No.), in the corner of the opposite road to the Provisional Store and locked it and went to home. The next morning on 16.05.2010 at about 5.00 a.m., he found the car was missing. Then, he gave the complaint before the respondent police against the accused persons. After receiving the complaint, the respondent police has been registered a case in Crime No.442 of 2010 and after investigation, the respondent police filed a final report before the X Metropolitan Magistrate Court, Egmore, Chennai for offences punishable under Sections 379 IPC @ 379, 201 r/w 34 IPC which was taken on file in C.C.No.4901 of 2010.

4.To prove the case, the prosecution has examined six witnesses, marked five documents and produced eight material objects.

5.The trial Court, after trial in C.C.No.4901 of 2010, found the petitioner/A1 Karthick @ Dilli Karthick as well as A2 Logesh @



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Loganathan guilty of offences punishable under Sections 379 & 201 IPC
and sentenced them as follows:

“The Accused are convicted for the offence under Section 379 IPC and sentenced to undergo Rigorous Imprisonment for 6 months and convicted for offence under Section 201 IPC and sentenced to undergo Rigorous Imprisonment for 2 months and all the sentences of imprisonment shall run concurrently.”

Thereafter, both the accused had filed Criminal Appeal in Crl.A.No.76 of 2013 and the appellate Court found A2 Logesh @ Loganathan was not guilty for the abovesaid offences and acquitted him from all the charges. In respect of the petitioner/A1, the appellate Court found guilty for the offences punishable under Sections 379 & 201 IPC and confirmed the judgment of the trial Court. Aggrieved against the same, the present criminal revision has been filed.



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6.The learned counsel for the petitioner contended that before the trial Court, the prosecution examined six witnesses, marked five documents and produced eight material objects. Among the witnesses, PW1 Deenadhayalan is the complainant and PW2 Somanathan, PW3 Sevagan are witnesses to the confession statement of the petitioner/A1 and seizer mahazer Ex.P3 and Ex.P5. Both the witnesses Somanathan and Sevagan have not deposed to connect the revision petitioner/A1 in all the crime. PW2 Somanathan, during his cross examination, deposed that he signed the confession statement and seizer mahazer at the police station. Further, another witness PW3 Sevagan also deposed that he signed a confession statement and seizer mahazer at Adaiyar. Their evidence is not enough to connect the accused with the crime.

7.Further, according to the prosecution, this petitioner/A1 got the car key from the second accused Lokesh @ Loganathan and prepared an alternative key and by using that key, the petitioner/A1 had stolen the car. Preparation of alternative key by the petitioner/A1 was not proved by the



prosecution. Though seized the car key as M.O.8 but not proved where it was prepared by this accused. Further accusation is that this accused was changing the white colour of the car into black. This was also not proved. No witnesses stated anything about the petitioner changed the colour of the car. In this regard, Investigating Officer, PW6 Thiru.Kochu Krishnan was cross examined and he deposed that he did not investigate the change of the colour of the car. Under these circumstances, the charges against the petitioner/A1 were not proved by the prosecution. Therefore, he is entitled to acquittal. However, the first appellate Court granted the benefit of doubt to the second accused and failed to give the same benefit of doubt to the petitioner/A1, which is contrary to law. Thus, pleaded to allow the criminal revision case.

8.The learned Government Advocate (Crl.side) for the respondent submitted that the evidence of prosecution PW1 to PW6 are sufficient to bring home the guilt against the accused. The decision of the trial Court is as per terms and dictum of law and there is no interference with the order passed by the trial Court as well as the appellate Court and thus, pleaded to



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dismiss the criminal revision.

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9.I have considered the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (Crl.side) for the respondent.

10.The charges against the accused is that the second accused Logesh @ Loganathan gave the original car key bearing registration No.TN-07-AL-9628 to this petitioner/A1 Karthick @ Dilli Karthick and he prepared alternative key for that car and by using the alternative key, he had stolen the car parked by the complainant PW1 Deenadhayalam opposite to professional store. After stealing the car, these accused changed the colour of the car into black and the original colour is white. In this regard, I have perused the prosecution witnesses. The prosecution examined PW1 Dheenadhayaan, who is the complainant, he did not depose anything to connect to accused with the crime, except deposed that both the persons were ex-employee of the KUN Motorcycle Pvt., Ltd., PW2



Somanathan, and PW3 Sevagan are the witnesses attesting the confession statement of the accused Ex.P5 and Seizer Mahazer Exs.P3 & P2. The remaining witnesses are, PW4 Saravanakumar, PW5 Ganesan had not deposed to connect the accused with the crime. PW6 Kochu Krishnan is the investigating officer. PW2 Somanathan, in his cross examination, stated that he signed the papers at police station and during the cross examination deposed that while the police went to Thiruvotriyur and stopped the jeep before the house and he did not know whether that house is thatched or tiled house and he stayed at jeep and the seized vehicle was black colour car. He signed the paper at the Police Station. PW3 Sevagan deposed that they went to Thiruvotriyur and seized the vehicle and he signed all the papers at Adayar, so, there is no consistency in their evidence. Apart from this, the investigating officer PW6 Kochu Krishnan, during his cross examination, deposed that while seizing the car, the car key was in the Car and he did not know from which place the colour of the car was changed and he did not know whether the colour was changed. In this regard, he did not investigate and he did not seize any materials used for changing the colour of the seized vehicle.



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11. Under these circumstances, there is no clear evidence that this petitioner/A1 prepared an alternative key to steal the car and by using that alternative key, he had stolen the car and changed the colour of the seized vehicle. Further, the petitioner was dismissed from service. Under these circumstances, the argument of the learned counsel for the petitioner/A1, that in order to terminate the petitioner from service, the complainant/PW1 parked the car before the petitioner's house and foisted the case on him, cannot be rejected.

12. Considering the totality of the facts and failed to prove the guilt of the petitioner/A1 by the prosecution for the offences punishable under Sections 379 and 201 IPC, the conviction and sentence imposed on the petitioner/A1 by the trial Court as well as the appellate Court are liable to be set aside. Accordingly, the criminal revision case is allowed. The conviction and sentence imposed on the trial Court as well as the appellate Court is set aside and the revision petitioner/A1 is acquitted from all the charges. If he is on bail, the bail bond executed by the revision



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petitioner/A1 shall stand cancelled.

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Index : Yes/No

Internet : Yes/No

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To

- 1.The IV Additional City Civil and Sessions Court,
Chennai.
- 2.The X Metropolitan Magistrate, Egmore,
Chennai – 8.
- 3.The Sub Inspector of Police,
V1, Villivakkam Police Station,
Chennai – 49.
(Crime No.442/2010)
- 4.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM,J.

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