

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRIMINAL REVISION CASE No.1619 of 2007

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Date:03.09.2014

Between:

Mudavath Balaiah

..... Petitioner.

AND

The State of Andhra Pradesh,
through Police, Sanjeevareddy
Nagar, rep by its Public
Prosecutor, High Court of A.P.,
Hyderabad.

.....Respondent.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRIMINAL REVISION CASE No.1619 of 2007

ORDER:

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This revision is preferred against judgment dated
22-10-2007 in CrI.A.No.214/2007 on the file of Metropolitan
Sessions Judge, Hyderabad whereunder judgment dated
28-05-2007 in C.C.No.475/2003 on the file of III Additional
Chief Metropolitan Magistrate, Hyderabad was confirmed to
the extent of conviction but sentence was modified.

2. Brief facts leading to this revision are as follows:-

Sub-Inspector of Police, S.R Nagar Police Station, Hyderabad filed charge sheet against revision petitioner alleging that on 06-04-2003, P.W.1 boarded Padmavathi Express at Kalahasti along with his wife and reached Secunderabad Railway Station on 07-04-2003, at about 5:30 A.M and after getting down from the train, they came out and engaged auto of revision petitioner, which was provided by the traffic booth P.C.No.3132 of Mahankali Police Station and he and his wife got down at Shanthibagh Apartments, Begumpet along with his luggage and paid the auto fare and the auto driver went away. When they checked their luggage, they found two V.I.P Alfa Suit Cases, which were kept to the back of back seat of the auto were missing and on that, he lodged a complaint with the police and police registered it as F.I.R and during investigation, traced the auto owner and thereafter, his driver and recovered the properties from the accused and filed charge sheet for the offence under Section 379 IPC. On these allegations, six witnesses are examined and four documents are marked on behalf of prosecution besides nine material objects and no witness is examined and no documents are marked on behalf of accused and on a overall consideration of oral and documentary evidence, trial Court found the accused guilty for the offence under Section 379 IPC and sentenced him to suffer three years imprisonment with a fine of Rs.500/-. Aggrieved by which, he preferred appeal to the Court of

Session and III Additional Metropolitan Sessions Judge, Hyderabad, while confirming conviction, modified the sentence from three years imprisonment to six months. Now aggrieved by the same, present revision is preferred.

3. When this matter is listed on 8-8-2014, no one is appeared on behalf of revision petitioner and therefore, it is directed to be posted on 22-08-2014 under the caption of orders and the learned Advocate for petitioner took two adjournments from that date and on his request, it was posted to yesterday and as it was not reached yesterday, it is posted to this day. Today, no one appeared on behalf of revision petitioner and no arguments are advanced.

4. Learned Public Prosecutor submitted that evidence of P.Ws.1 to 6 established the guilt of the accused and both trial Court and appellate Court rightly convicted the revision petitioner and that there are no grounds to interfere with the concurrent findings of the Courts below.

5. Now the point that would arise for my consideration in this revision is whether judgments of the Courts below are legal, proper and correct?

6. **Point:-**According to prosecution, offence was on 07-04-2003. The accused is driver of auto bearing No.AP.13 W 5282 and according to prosecution, P.W.1 hired this auto on 07-04-2003, at 5:30 A.M., and the accused dropped P.W.1 and his wife at Shantibagh Apartments, Begumpet,

and left the place, after collecting the fare and went away with two Alfa Suit Cases containing valuables and on the report of P.W.1, police recovered these two suit cases from the accused. P.W.1 deposed in his evidence supporting the prosecution case and the F.I.R contents and P.W.2 who is the auto owner deposed that the auto bearing No.P 13 W 5282 was given on hire to the accused on 07-04-2003. P.W.3 was the Police Constable, who was on duty at railway station, who provided this auto to P.W.1. He supported and corroborated the evidence of P.W.1 and there are no contradictions or omissions in the evidence of P.Ws.1 to 3 on any of the material aspects. P.W.4 is one of the mediator in whose presence, police apprehended the accused and recovered M.Os.1 to 9 and P.W.5 is the constable, who accompanied investigating officer and present at the time of arrest of accused. P.W.6 is the investigating officer. All these witnesses clearly deposed supporting the prosecution case and nothing could be elicited from them in spite of cross-examination to discredit their testimony. Evidence on record clearly established that M.Os.1 to 9 were recovered from the hut of the accused, and they belong to P.W.1 and his wife. Considering the evidence of P.Ws.1 to 6 and the fact that M.Os.1 to 9 were recovered from the possession of accused, both trial Court and appellate Court held that the revision petitioner is responsible for commission of the theft and accordingly, convicted him. On a scrutiny of the material, I do not find any wrong appreciation of evidence either by the trial Court or by the appellate Court. I also do

not find any incorrect findings in the judgments of the Courts below on any of the material aspects.

7. For these reasons, I am of the view that both the Courts have not committed any illegality either in appreciating the evidence or in convicting the revision petitioner.

8. For these reasons, I am of the view that there are no grounds to interfere with the concurrent findings of the Courts below.

9. Accordingly, revision is dismissed confirming conviction and sentence.

10. Trial Court shall take steps for apprehension of accused for undergoing unexpired portion of sentence.

11. As a sequel, miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand dismissed.

JUSTICE S. RAVI KUMAR

Date:03.09.2014

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