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Crl.A.No.65 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.08.2023

DELIVERED ON : 07.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Crl.A.No.65 of 2022

Mohammed Kaleel

... Appellant

Vs.

State Rep. by
The Inspector of Police (Crime)
Vellore North Police Station,
Vellore

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, 1973 against the judgment dated 14.12.2020, passed by the learned Sessions Judge, Fast Track Mahila Court, Vellore. in S.C.No.135 of 2015.

For Appellant : Mr.K.Sathishkumar

For Respondent : Mr.S. Sugendran
Additional Public Prosecutor.



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JUDGMENT

WEB COPY This criminal appeal is filed against the Judgment and order of the Sessions Judge, Fast Track Mahila Court, Vellore, made in S.C.No.135 of 2015, dated 14.12.2020.

2. The appellant is the accused in S.C.No.135/2015 and he is convicted and sentenced as detailed hereunder:

<i>Conviction</i>	<i>Sentence</i>
Section 452 IPC	Rigorous Imprisonment for 7 years and a fine of Rs.500/-, in default, to undergo 1 month Simple imprisonment.
Section 392 r/w 397 IPC	Rigorous Imprisonment for 10 years and a fine of Rs.1,000/-, in default, to undergo 3 months Simple imprisonment.

The aforesaid sentences were ordered to run concurrently. The period already undergone by the accused has been directed to be set off under Section 428 Cr.P.C.



3. The case of the prosecution in a nutshell is as follows:

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3.1. On 1.02.2015 at about 9 a.m. when the defacto complainant Amutha (P.W.1) was in her firewood shop located opposite Pachaiyappa's Textile shop in Puthukudiyam Sathiram, Thottapalayam, Vellore District, the accused Mohammed Kaleel snatched her gold chain at knife point and tried to make good his escape and when passersby and neighbours tried to apprehend him, he threatened the public brandishing the knife he possessed. The panic stricken victim Amutha as well as the public were so petrified that the neighbouring houses shut their doors in the melee.

3.2. Amutha (P.W.1) having lost her chain went to Vellore North (Crime) Police Station, and lodged a complaint (Ex.P1) which was registered as FIR (Ex.P6) in Crime No.41/2015 by Thiru.Syed Hussain (P.W.4), Sub Inspector of Police, under Sections 447, 294(b), 392 r/w 397 and 506(ii) IPC.

3.3. Thiru.Ramachandran (P.W.5), Inspector of Police, Vellore North (crime) Police Station, took up investigation on the same day at 11.15 a.m.,



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went to the scene of occurrence, prepared an observation mahazar (Ex.P3) and a rough sketch (Ex.P7) in the presence of witnesses, namely, Raja (P.W.2) and Vijayakumar (not examined). Thereafter, he recorded the statements of witnesses Amutha (P.W.1), Murali, Selvi, Kala, Andal, Ganesh, Raja (P.W.2) and Vijayakumar. Later he arrested the accused Mohammed Kaleel near Konavattam flyover at 2.30 p.m. the same day. His confession statement (Ex.P8) was recorded in the presence of witnesses Veeramanikandan (P.W.3) and Saravanan (not examined). He also recovered a 5 sovereign gold chain (M.O.3) from the accused and a foldable knife with a green handle (M.O.1) and sent to the concerned court under form 95. A photo of the recovered chain was marked as M.O.2.

3.4. The accused was remanded to judicial custody the same day and after recording the statements of Veeramanikandan (P.W.3), Saravanan and Syed Hussain (P.W.4), P.W.5 filed the final report on 05.05.2015, after filing an alteration report (Ex.P9), against the accused for the offences punishable under Sections 452, 294(b), 392 r/w 397 and 506(ii) IPC before the Judicial Magistrate No.IV, Vellore, in PRC No.24/2015, ,who in turn



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committed the case to the Court of Principal Sessions Judge, Vellore, under Section 209 Cr.P.C. after furnishing copies of records to the accused under Section 207 Cr.P.C.

3.5. The learned Principal Sessions Judge, Vellore, took the case on file in S.C. No.135/2015 and made over the same to the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Vellore. The learned Sessions Judge framed the charges under Sections 452 and 392 r/w 397 IPC against the accused.

3.6. In order to bring home the guilt of the accused the prosecution examined 5 witnesses and marked M.O.1 to M.O.3.

3.7. The accused when questioned under Section 313 Cr.P.C. about the incriminating circumstances appearing in evidence against him, he denied of having committed any offence. He had no oral or documentary evidence on his side.



3.8. The trial court, after analysing the oral and documentary evidence, had found the accused guilty of the offences under Sections 452 and 392 r/w 397 IPC and sentenced him as stated in aforesaid paragraph No.2. Aggrieved over which, the present Criminal Appeal is filed by the appellant/accused.

4. Mr.K.Sathishkumar, the learned counsel for the appellant/accused would contend that the prosecution did not prove its case beyond reasonable doubt. He further contended that no Identification parade was conducted especially when the accused was suddenly picked up and arrested. According to him the police have framed this case against the accused and that such an incident never happened. His reasoning was that the chain which was allegedly recovered from the accused was very much intact while the victim P.W.1 had deposed that the knife was used to cut the chain. Moreover, the victim did not bear any injury on her neck which clearly showed that the chain cutting or snatching theory was an invented one. He had also raised doubt as to how the victim P.W.1 had exactly identified the accused when as per her deposition she herself was threatened and under



intense fear. There was also a doubt raised as to how the accused could do the chain snatching in broad day light that too in a busy locality which was located nearer to the bus stop and many shops adjoining the scene of occurrence. It was also contended that how come no independent witness was brought in especially when the incident allegedly took place in a busy market locality. He therefore pleaded for acquittal.

5. Per contra, Mr.S. Sugendran, learned Additional Public Prosecutor contended that there was not an iota of doubt that the chain snatching took place. It was established clearly that after snatching the chain from P.W.1, the accused made good his escape by threatening the public on the road with his knife and the crime is of heinous nature and the conviction and sentence by the trial court was perfectly in order .

6. The victim/defacto complainant P.W.1 had seen the accused. It was on the same day and in her complaint she had mentioned that the crowd which gathered immediately after incident seem to know the name of the accused as Mohammed Kaleel. In fact the FIR contained the name of the



accused. Thus the need for Identification parade does not arise. P.W.1

withstood the testimony of cross examination. The deposition of P.W.1 is overwhelmingly convincing. She had seen the accused very clearly and could recollect his face within a few hours on the same day when the accused was arrested by the police. The deposition of P.W.1 is also clear on the use of knife to threaten her while snatching the chain from her. It was argued by the accused that the chain was intact and not cut. But the knife was used to keep the public which gathered there at bay. Thus he not only threatened the victim but also the crowd which gathered there. Thus the conviction of the accused for the offences punishable under Sections 452 and 392 r/w 397 IPC is perfectly in order. The trial court taking into account the serious nature of the offence had appropriately and adequately sentenced the accused to undergo Rigorous Imprisonment for 7 years and a fine of Rs.500/-, in default, to undergo 1 month Simple imprisonment for the offence punishable under Section 452 IPC and Rigorous Imprisonment for 10 years and a fine of Rs.1,000/-, in default, to undergo 3 months Simple imprisonment for the offence punishable under Section 392 r/w 397 IPC. There is no merit in the appeal, in view of the above discussions. The



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Criminal Appeal, therefore, is dismissed.

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7. In the result,

- i. the Criminal Appeal is dismissed.
- ii. the Judgment and order of the Sessions Judge, Fast Track Mahila Court, Vellore, made in S.C.No.135 of 2015, dated 14.12.2020, is confirmed.
- iii. The appellant shall surrender before the learned Sessions Judge, Fast Track Mahila Court, Vellore, within 15 days from the date of receipt of a copy of this order, failing which, the Trial Court shall take steps to secure him for undergoing the remaining period of sentence.

07.09.2023

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Index : yes/no

Speaking /Non speaking Order



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To

1. The Sessions Judge, Fast Track Mahila Court, Vellore.
2. State Rep. by
The Inspector of Police (Crime)
Vellore North Police Station,
Vellore.
3. The Additional Public Prosecutor
High Court, Madras.
4. The Section Officer,
Criminal Section, High Court, Madras.



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R.HEMALATHA, J.

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Pre-Delivery Judgment in
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