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Crl.RC.No.417 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2023

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.417 of 2020

Suresh

... Petitioner

Vs.

State rep. by its
The Inspector of Police
Railway Police Station
Coimbatore District
(Crime No.293 of 2017)

... Complainant

Prayer: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying to call for the records in C.A.No.294 of 2018 on the file of III Additional District and Sessions Judge, Coimbatore, dated 17.07.2019 by confirming the conviction and sentence passed in C.C.No.37 of 2018 on the file of the Judicial Magistrate No.6, Coimbatore, dated 05.07.2018 and set aside the same.

For Petitioners : No Appearance

For Respondent : Mr.R.Murthi
Government Advocate (Crl. Side)



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ORDER

This Criminal Revision Petition has been filed seeking to set aside the Judgment passed in C.A.No.294 of 2018 on the file of III Additional District and Sessions Judge, Coimbatore, dated 17.07.2019 which confirmed the conviction and sentence passed in C.C.No.37 of 2018 on the file of the Judicial Magistrate No.6, Coimbatore, dated 05.07.2018.

2. When the matter came up before this Court on 16.03.2020, at the request of the learned counsel for the petitioner, the case was adjourned to 26.03.2020. Today (02.01.2023) when the matter is taken up for hearing, there is no representation for the petitioner. The revision is pending from the year 2020. Therefore, the matter is disposed of on merits.

3. The petitioner is accused in C.C.No.37 of 2018 on the file of the Judicial Magistrate No.6, Coimbatore. The respondent Police registered the case in Crime No.293 of 2017 and after investigation, laid



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charge sheet against the accused/revision petitioner, before the Judicial Magistrate No.6, Coimbatore, who took up the case on file in C.C.No.37 of 2018. After framing the charges and after hearing of the arguments on either side, the trial Court came to the conclusion that the accused/revision petitioner herein has committed the offence under Section 392 IPC and convicted and sentenced him to undergo 3 years rigorous imprisonment and to pay fine of Rs.2,000/- in default to undergo rigorous imprisonment for a further period of 15 days.

4. Aggrieved over the Judgment of conviction and sentence, the accused, preferred appeal before the Principal District and Sessions Judge, Coimbatore, in C.A.No.294 of 2018 and the same was made over to the III Additional District and Sessions Judge, Coimbatore. The learned Additional Sessions Judge, after hearing the arguments and re-appreciating the evidence, dismissed the appeal and also confirmed the Judgment of conviction and sentence passed by the trial Court. Against which, the accused has filed the present revision before this Court.



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5. The case of the prosecution is that on 07.12.2017, the defacto complainant was travelling in Nilgiri Express No.12671 from Chennai to Mettupalayam by taking a sum of Rs.44,760/- covered in a brown colour purse to pay the school fess of her son who was studying 9th standard at Stanes School, Conoor. She had kept Rs.4,760/- in her purse and Rs.40,000/- wrapped in a green colour Saree along with that, she was carrying her son's Birth Certificate, Community Certificate, ATM Card, Aadhaar Card and Pan Card. On 08.12.2017 at 5.20 a.m., when the train was crossing Vadakovai and was waiting for signal near brook field mall, the accused suddenly barged in the ladies compartment and grabbed the hand bag and when the defacoto complainant raised her voice, the co-passengers attempted to catch him but the accused by threatening them escaped from the scene of occurrence along with the bag. Immediately after the incident, the defacto complainant pulled the emergency chain of the train and when the train stopped, she got down from the train and found the accused running. Thereafter, she came to the police station and lodged a complaint. The respondent police after investigation, laid charge



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sheet before the Judicial Magistrate No.6, Coimbatore and the same was taken on file in C.C.No.37 of 2018 and after completing the formalities, the learned Magistrate framed the charge against the accused for the offence under Section 392 IPC.

6. In order to substantiate the charge framed against the accused, on the side of the prosecution, totally 8 witnesses were examined as P.W.1 to P.W.8 and 15 documents were marked as Exs.P.1 to P.15 besides, 6 Material Objects were exhibited as M.O.1 to M.O.6.

7. Out of the 8 witnesses, the defacto complainant who is the victim and lost her bag with money, was examined as P.W.1 and she has clearly narrated the entire incident.

8. Based on the complaint given by P.W.1/defacto complainant, during investigation, the house of the accused/revision petitioner where he was staying, was searched by the respondent police and they seized a



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sum of Rs.25,000/- under the mahazar. Subsequently, charge sheet was filed and the same was also produced before the Magistrate concerned.

The occurrence is said to have taken place in a running train that too in the early morning. When the train was moving slowly, after the commission of offence, the accused escaped from the train and also from the clutches of law. Thereafter, the accused was subsequently identified by the defacto complainant during the identification Parade conducted by the Judicial Magistrate and the money was also recovered from the house of the accused/revision petitioner where he was staying at the relevant point of time. Therefore, the prosecution has proved its case. Further, all the Material Objects were also recovered from the accused/revision petitioner under mahazar and the oral and documentary evidence of the prosecution clearly shows that the accused/revision petitioner, in a running train, snatched the hand back of the defacto complainant. Therefore, both the trial Court and the appellate Court rightly appreciated the evidence and found the accused/revision petitioner guilty for the offence under Section 392 IPC and convicted and sentenced as stated



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above. Since the occurrence has taken place in a running train in which the passengers were travelling to their respective places which are in different places, it is not possible to find out the persons who travelled along with the defacto complainant in the train at the time of occurrence and enquire them.

9. The uncle of the revision petitioner was examined as P.W.4 and he has clearly stated that the accused/revision petitioner stayed in his house before the date of occurrence and a sum of Rs.25,000/- was recovered from the accused/revision petitioner from his house.

10. Therefore, considering the evidence of the defacto complainant/P.W.1 and P.W.4/uncle of the revision petitioner, this Court finds that the prosecution has proved its case against the accused/revision petitioner for the offence under Section 392 IPC and this Court does not find any perversity in the appreciation of evidence by the trial Court. The trial Court has rightly appreciated the entire evidence and convicted the



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accused/revision petitioner for the offence under Section 392 IPC and that the appellate Court has also rightly re-appreciated the entire evidence and confirmed the conviction and sentence passed by the trial Court.

11. In this case, the money which was brought by a poor lady in a train to pay the school fees of her son has been theft. It is very difficult to replace the money she lost. Therefore under these circumstances, this Court is not inclined to reduce the sentence and this Court does not find any perversity in the appreciation of evidence by the Courts below. Therefore, the revision is liable to be dismissed.

12. Accordingly, this Criminal Revision Case is dismissed.

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To
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1. The III Additional District and Sessions Judge,
Coimbatore
2. The Judicial Magistrate No.6,
Coimbatore,
3. The Inspector of Police
Railway Police Station
Coimbatore District
4. The Public Prosecutor
High Court, Madras



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P.VELMURUGAN

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