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Crl.R.C.No.1129 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.01.2023

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No.1129 of 2020

and

Crl.M.P.No.7811 of 2020

Sekar

... Petitioner

Vs.

State represented by
The Inspector of Police,
C-4, Rathinapuri Police Station,
Coimbatore District.

... Respondent

Prayer:

Criminal Revision Case filed under Section 397 and 401 Cr.P.C., to set aside the order of conviction and sentence dated 28.07.2020 in C.A.No.440 of 2018 on the file of the V Additional District and Sessions Judge, Coimbatore, confirming the order of conviction and sentence dated 17.09.2018 in C.C.No.717 of 2017 on the file of the learned Judicial Magistrate No.II, Coimbatore.

For Petitioner : Mr.S.N.Arunkumar

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



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ORDER

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This Criminal Revision Case has been filed against the order dated 28.07.2020 passed in Crl.A.No.440 of 2018 on the file of the V Additional District and Sessions Judge, Coimbatore, confirming the order of conviction and sentence dated 17.09.2018 passed in C.C.No.717 of 2017 on the file of the learned Judicial Magistrate No.II, Coimbatore.

2. The respondent police registered the case against the petitioner and yet another in Crime No.1020 of 2017 for the offence under Section 392 IPC. The petitioner herein arrayed as second accused in the said case. After investigation, laid a charge sheet before the Judicial Magistrate No.II, Coimbatore. The learned Magistrate has taken the case on file in C.C.No.717 of 2017. After trial, the learned Magistrate found the petitioner guilty for the offence under Section 392 IPC and convicted and sentenced him to undergo three years Rigorous Imprisonment and to pay fine of Rs.2,000/- in default to undergo one month simple imprisonment. Challenging the judgment of conviction and sentence, the petitioner has filed an appeal before the learned Principal District and Sessions Judge, Coimbatore and the same has been taken on file in



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Crl.A.No.440 of 2018 and made over the same to the learned V Additional District and Sessions Judge, Coimbatore for disposal. The learned Additional Sessions Judge after hearing the arguments advanced on either side, dismissed the appeal, by confirming the judgment of the trial court. Aggrieved over the same, the petitioner/second accused has filed the present Criminal Revision Case before this Court.

3. Learned counsel for the petitioner would submit that the petitioner was arrested by the respondent police after 15 days from the date of alleged occurrence. The prosecution has not conducted identification parade and wrongly fixed the petitioner as if he was involved in the said case. Only after the arrest of the accused, the respondent police called P.W.1 to identify the ornaments and during that time, P.W.1 has seen the accused in the police station. Hence, P.W.1 identified the accused only on indication of the respondent police. P.W.5 has exaggerated his version and there are contradictions on material aspects in his evidence. P.W.6 said to have been recovery witness and his evidence is also not believable. The prosecution failed to prove its case beyond all reasonable doubt.



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4. Learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner and other accused were involved in this case. On 31.10.2017 at about 19.20 pm, opposite to Maharashtra Co-operative Office at 3rd street, Tatabad, Coimbatore, while the witnesses P.W.1 and her husband were going to temple by walk, A2 riding the motor cycle and A1 was pillion rider came in motor cycle and A1 committed robbery by snatching the gold chain weighing about 1 ¼ sovereign from the neck of P.W.1 and escaped in motor cycle and thereby they committed offence punishable under Section 392 IPC. The defacto-complainant was examined as P.W.1 and she has categorically stated about the entire incident. Husband of P.W.1 was examined as P.W.2. Son of P.Ws.1 and 2 were examined as P.W.3, who is a hearsay witness. Therefore, from the evidence of P.Ws.1 and 2, it is very clear that the petitioner was involved in the abovesaid offence. He handed over the jewel at the time of arrest. The petitioner in his confession statement has admitted the abovesaid occurrence. Thereafter the petitioner was arrested by the respondent police and the defacto-complainant also identified the petitioner. The petitioner himself admitted that he has committed offence as



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stated above. P.W.6 has deposed about the arrest of the accused and the recovery of the material. From the evidence of P.Ws.1 ,2 and P.W.6, the trial court proved its case beyond all reasonable doubt.

5. Both the Courts below rightly appreciated the evidence and convicted the revision petitioner. Revision Court cannot traverse beyond the scope of the revision. Scope of revision is very very limited, it cannot go deep and re-appreciate each and every evidence and it can see only the perversity in appreciation of the evidence of P.W.1. On a reading of entire materials, especially evidence of P.Ws.1 , 2 and P.W.6 and Exs.P1 to P6, this Court does not find perversity in appreciation of evidence by both the Courts below and there is no merit in the Revision and the same is liable to be dismissed. Accordingly, the Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

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Index:yes/No

Internet:yes/No

5/6



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P.VELMURUGAN, J.

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To

1. The V Additional District and Sessions Judge, Coimbatore,
2. The Judicial Magistrate No.II, Coimbatore.
3. The Public Prosecutor,
High Court, Madras.

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and
Crl.M.P.No.7811 of 2020

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