



Crl.R.C(MD)Nos.256, 304 & 551 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)Nos.256, 304 & 551 of 2018

1.Crl.R.C(MD)No.256 of 2018:-

M.Sakthi @ Sakthivel

... Revision Petitioner/
Appellant/Accused No.9

Vs.

State through,
The Inspector of Police,
Railway Police Station,
Rameswaram,
Ramanathapuram District.

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 r/w 482 of the Code of Criminal Procedure, to call for the records of the learned Additional District and Sessions Judge, Ramanathapuram in C.A.No.6 of 2015, dated 14.03.2018, confirming the conviction and sentence of imprisonment by the learned Assistant Sessions Judge, Ramanathapuram in S.C.No.88 of 2007, dated 13.03.2015 and set aside the same by allowing the revision.

For Petitioner

: Mr.R.Anand
for Mr.M.Saravanan

For Respondent

: Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)



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2.Crl.R.C(MD)No.304 of 2018:-

Suresh Kumar @ Suresh

... Revision Petitioner/
Appellant/Accused No.1

Vs.

The Inspector of Police,
Railway Police Station,
Rameswaram,
Ramanathapuram District.
... Respondent/

Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 374(2) of the Code of Criminal Procedure, to call for the entire records in connection with the Judgment dated 14.03.2018 passed in Crl.A.No. 13 of 2015 on the file of the learned Additional District and Sessions Judge, Ramanathapuram, confirming the Judgment dated 13.03.2015 passed in S.C.No.88 of 2007 on the file of the learned Assistant Sessions Judge, Ramanathapuram and set aside the same.

For Petitioner : Mr.M.Seeni Sulthan

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)

3.Crl.R.C(MD)No.551 of 2018:-

N.Saravanan

... Revision Petitioner/
Appellant/Accused No.2

Vs.

The State through,
The Inspector of Police,
Railway Police Station,
Rameswaram,
Ramanathapuram District.

... Respondent/
Respondent/Complainant



Crl.R.C(MD)Nos.256, 304 & 551 of 2018

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records of the learned Additional District and Sessions Judge, Ramanathapuram in C.A.No.12 of 2016, dated 14.03.2018, confirming the conviction and sentence of imprisonment by the learned Assistant Sessions Judge, Ramanathapuram in S.C.No.88 of 2007, dated 13.03.2015 and set aside the same by allowing the revision.

For Petitioner : Mr.P.Karthick
For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)

COMMON ORDER

All the revisions have been filed to set aside the Judgment made in C.A.Nos.6 of 2015, 13 of 2015 and 12 of 2016, dated 14.03.2018, on the file of the learned Additional District and Sessions Judge, Ramanathapuram, confirming the conviction and sentence made in S.C.No.88 of 2007, dated 13.03.2015 on the file of the learned Assistant Sessions Judge, Ramanathapuram.

2.All the revisions, arising out of the single trial, were taken up together and disposed of by this common order.



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3.The case of the prosecution is that on 29.10.2001 when the defacto complainant and another were travelling in Rameswaram to Trichy Train in S1 coach at Berth Nos.28 and 29 along with the suitcase containing 1-1/2 kgs of jewels and 165 grams of golden plates and remaining amount of Rs.4,60,000/- in the leather bag, at that juncture, all the accused persons with an intention to commit robbery, Accused Nos.1 to 4 entered into S1 coach, Accused Nos.5 to 8 entered into S2 coach and Accused No.9 entered into the last coach. Accused Nos.1 to 4 requested the Travelling Ticket Examiner (TTE) for providing berth to them. Since no berth was available in the said coach, they requested the TTE and they assured that they would get down at the next station. After TTE went to the next coach, Accused Nos.1 to 4 at knifepoint threatened the complainant and also caused injury to his friend, who was sleeping in the middle berth on his forehead and robbed the chain from the neck of the defacto complainant's friend and also robbed the golden chain from the defacto complainant. Thereafter, they had also taken the leather bag and suit case and thrown out the jewels from the train. After raising the alarm, the accused persons pulled the emergency chain and get down from the train. Simultaneously, other accused, who were traveling in the next



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compartment, also got down from the train. Thereafter, they had taken the leather bag along with the jewels and flew away.

4.On the complaint, the respondent registered the F.I.R in Crime No.285 of 2001 for the offence under Section 395 r/w 397 of I.P.C. After completion of the investigation, the respondent filed a final report for the charge under Section 395 r/w 397 of I.P.C as against Accused No.1 to 9 and charged Accused No.10 for the offence under Section 216(A) of I.P.C.

5.On the side of the prosecution, they had examined P.W.1 to P.W.25 and marked Ex.P.1 to Ex.P.22. The prosecution also produced material objects M.O.1 to M.O.12 and on the side of the accused, no one was examined and no documents were produced.

6.On perusal of the oral and documentary evidence, the trial Court found Accused Nos.1, 2, 8 and 9 alone guilty for the offence punishable under Section 395 r/w 397 of I.P.C and sentenced them to undergo five years Rigorous Imprisonment each and imposed a fine of Rs.1,00,000/- each, in default to undergo one



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year Simple Imprisonment each. Aggrieved by the same, they preferred appeals and the same was also dismissed, confirming the Judgment passed by the trial Court. Aggrieved by the same, Accused Nos.1, 2 and 9 have preferred the present revisions.

7.The respective learned counsels appearing for the accused would submit that the case of the prosecution is an unbelievable one, since even according to the case of the prosecution, only four persons have been involved in the crime. Whereas, P.W.3 deposed that 4 to 5 persons were running from the train after committing the offence. None of the witnesses deposed the physical presence of the accused persons while committing the crime. As far as Accused No.9 is concerned, P.W.24, who is an investigating officer, arrested him on 24.12.2003 and charged him as if he had also participated in the crime. As per the confession, he was in possession of two ingots weighing 80 grams and the same is with the custody of one Sreeban. Whereas, the said Sreeban was not examined by the prosecution. The two golden ingots alleged to have been recovered based on the information given by the accused were also not identified by the prosecution. In fact, the identification conducted by the prosecution was also not believable by the trial



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Court. Even then, mechanically convicted the petitioners and confirmed by the Appellate Court without any piece of evidence. The defacto complainant was examined as P.W.1 and his staff, who was also travelling along with P.W.1, was examined as P.W.2. In fact, immediately after stopping the train, the Sub-Inspector of Police and Head Constable visited P.W.1 and P.W.2. They never disclosed about the alleged robbery committed by the accused persons. They got down at Trichy and they did not prefer any complaint before the Railway Police at Trichy. After taking treatment at Rameswaram, P.W.1 lodged the complaint before the Railway Police Station at Rameswaram. In fact, they made a statement before the Doctor that while they were travelling in the bus, the driver of the bus applied a sudden brake, they hit on the seat and therefore, they sustained an injury on his forehead. Therefore, they never disclosed anywhere in respect of the robbery committed by the accused except the complaint before the respondent. The prosecution failed to prove its case beyond any doubt and prayed for acquittal of the petitioners.

8.Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent would submit that in



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order to bring the charge to home, the prosecution had examined P.W.1 to P.W.25 and marked Ex.P.1 to Ex.P.22. On the basis of the confession statement, recovery was also made from the accused persons and produced before the trial Court as material objects M.O.1 to M.O.12. Therefore, the prosecution categorically proved its case beyond any doubt and the Courts below rightly convicted the petitioners for the offence punishable under Section 395 r/w 397 of I.P.C.

9.Heard the learned counsels appearing on either side and perused the materials available on record.

10.There are totally 10 accused, in which, the Courts below convicted Accused Nos.1, 2, 8 and 9 and they were convicted for the offence under Section 395 r/w 397 of I.P.C. Accused Nos.1, 2 and 9 have preferred the revisions. The occurrence occurred on 29.10.2001. When P.W.1 and P.W.2 were travelling from Rameswaram to Trichy in Train in Coach No.S1 at Seat Nos.28 and 29 at about 11.25 p.m., the accused persons robbed the chain of P.W.2 at knife point and also robbed the bag from P.W.2 and had thrown out the leather bag from the train. When P.W.1 and P.W.2



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raised the alarm, they pulled the emergency chain and got down.

The said complaint was lodged only on 31.10.2001, that too, before the respondent police.

11. On perusal of the evidence of P.W.1 revealed that immediately after the alleged robbery, P.W.1 did not disclose anything about the robbery to the co-passengers and also failed to lodge any complaint. Only after taking treatment, P.W.1 lodged the complaint before the respondent police on 31.10.2001. After stopping the train, the TTE examined him. However, he did not disclose anything about the robbery committed by the accused persons. He also did not lodge any complaint before the TTE. At that juncture, two railway police, namely Sub-Inspector of Police and Head Constable, also came there and enquired. Even then, P.W.1 did not disclose the robbery and also failed to lodge any complaint. In fact, the injury was also not disclosed to them. Though P.W.1 and P.W.2 sustained injuries and they were treated by the Doctor, they did not even disclose the robbery and how the injuries were sustained by them before the Doctor. In fact, they also went to a private hospital. No accident register was recorded and no complaint was lodged even at Trichy. That apart, P.W.1 and P.W.2 also failed to



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state the number of jewels and the weight of the jewels which were allegedly robbed by the accused persons. Further, they disclosed before the Doctor at Trichy that the injury sustained by them, during travelling on the bus, that too, applying the sudden brake. P.W.2 deposed that the first accused snatched the chain and he was standing along with the other four accused persons. When he prevented the snatching of chain, he was stabbed by the first accused by knife. He also deposed that they did not disclose about the robbery and also stabbed injury to the TTE and the Railway Police, who enquired immediately after the occurrence. Therefore, they failed to support their own case. Insofar as the identification parade is concerned, the learned Magistrate, who conducted the identification parade, was examined as P.W.18. However, the identification of the accused persons was not proved by the prosecution and the trial Court concluded that the prosecution failed to identify the accused persons. However, for statistical purposes, the trial Court mechanically convicted the petitioners for the offence punishable under Section 395 r/w 397 of I.P.C. It is also unfortunate to state that the Appellate Court also mechanically confirmed the Judgment of the trial Court by reproducing the same grounds by the trial Court. Therefore, the prosecution failed to prove its case beyond any doubt and as such, the conviction under Section 395



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r/w 397 of I.P.C as against the petitioners cannot be sustained and it is liable to be set aside.

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12. Accordingly, these Criminal Revision Cases are allowed and the Judgment made in C.A.Nos.6 of 2015, 13 of 2015 and 12 of 2016, dated 14.03.2018, on the file of the learned Additional District and Sessions Judge, Ramanathapuram, confirming the conviction and sentence made in S.C.No.88 of 2007, dated 13.03.2015 on the file of the learned Assistant Sessions Judge, Ramanathapuram, are set aside. The petitioners/Accused Nos.1, 2 and 9 are acquitted. Bail bond if any executed by the petitioners/Accused Nos.1, 2 and 9 shall stand cancelled and a fine amount if paid is ordered to be refunded to the petitioners/accused Nos.1, 2 and 9 forthwith.

06.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

Note:- Issue Order Copy on 08.06.2023.

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To

- 1.The Additional District and Sessions Judge,
Ramanathapuram.
- 2.The Assistant Sessions Judge,
Ramanathapuram.
- 3.The Inspector of Police,
Railway Police Station,
Rameswaram,
Ramanathapuram District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN, J.

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Order made in
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06.06.2023