



CrI.R.C.No.787 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.787 of 2022

Babu

... Petitioner

Vs.

State rep. By
The Inspector of Police,
B-9, Saravanampatti Police Station,
Coimbatore.
Crime No.380 of 2014.

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the judgment dated 04.04.2022 made in C.A.No.65 of 2020 on the file of the learned III Additional District and Sessions Judge, Coimbatore by confirming the judgment of the learned Judicial Magistrate Court No.II, Coimbatore passed in C.C.No.746 of 2014 dated 03.01.2020.

For Petitioner	:	Mr.S.N.Arunkumar
For Respondents	:	Mr.A.Damodaran Additional Public Prosecutor

ORDER

The petitioner/A1 was convicted by the learned Judicial Magistrate No.II, Coimbatore in C.C.No.746 of 2014 by order dated 03.01.2020 for the



offence under section 382 IPC and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.500/-. Against which, the petitioner preferred an appeal before the Sessions Court in C.A.No.65 of 2020 and the learned III Additional District and Sessions Judge, Coimbatore by judgment dated 04.04.2022 dismissed the appeal by confirming the conviction. Against which, the present revision petition is filed.

2.The contention of the learned counsel for the petitioner is that during the trial, there were two persons, namely, the petitioner and one Sanjaykrishnan, but the Trial Court acquitted A2 in this case. The case projected against the petitioner is that on 05.06.2014 at about 6.40 a.m., when P.W.1 was going to the temple, the petitioner snatched the gold chain of 3 sovereigns from her and fled from the scene along with A2 who was waiting for him. P.W.2, who is the husband of P.W.1 was informed about the incident, he came there and thereafter, P.W.1 and P.W.2 went to the Police Station and lodged a complaint. P.W.7 on receipt of the complaint, went to the scene of occurrence, prepared observation mahazar/Ex.P2 and rough sketch/Ex.P8 in the presence of P.W.3. On the same day, A1 was arrested and gave a confession and based on his confession, Muthoot



Finance receipt/Ex.P4 was seized. P.W.5/Manager of Muthoot Finance produced M.O.1/chain and confirmed that the chain was pledged by A1, who is a regular customer. On completion of investigation, charge sheet filed in this case. During investigation, P.W.1 to P.W.7 examined, Ex.P1 to Ex.P9 and M.O.1 marked on the side of the prosecution and on the side of the defence, no witnesses examined and no documents marked. On conclusion of trial, the Trial Court convicted the petitioner as stated above which was confirmed by the Lower Appellate Court.

3.The primary contention of the petitioner is that in this case, the occurrence took place on 05.06.2014 and the complaint was lodged on the same day. In the complaint/Ex.P1, it is recorded that an unidentified person snatched her chain and on seeing them, they can be identified. In this case it is stated that after arrest of A1, P.W.1 was called to Saravanapatti Police Station on 23.07.2014 where she identified him. It is further submitted that there is no test identification parade conducted in this case. The petitioner is a stranger to P.W.1 and hence the identity of the petitioner had not been proved. He further submitted that M.O.1/chain has not been proved to be of P.W.1, except for oral evidence of P.W.1, no details of the chain given in the



complaint. Further in this case, A2 was acquitted on the same evidence and the same benefit to be given to the petitioner. He further submitted that the petitioner had been in incarceration for more than three months and he is not involved in any offence of similar nature.

4.The learned Additional Public Prosecutor strongly opposed the contention of the petitioner and submitted that the Trial Court on the evidence of P.W.1 and P.W.5 convicted the petitioner. P.W.1 stated that on 05.06.2014 at about 6.40 a.m. while she was walking alone in the road, a person came and snatched the chain and he can be identified. The person fled from the scene of occurrence in the motor bike driven by A2. In this case, A2 was acquitted for the reason that the vehicle involved during chain snatching could not be seized and recovered. The role of A2 is different from that of the petitioner. The petitioner cannot claim that he is similarly placed as that of A2. He further submitted that P.W.5 is an important witness in this case who confirms that the loan receipt which was with A1 is that of the Muthoot Finance and the jewels produced was identified as that of P.W.1. The petitioner had not given any reason or made a claim that the gold jewels belongs to him. Ex.P4 is the jewel loan application in which the



petitioner's signature and other details are available. P.W.5 further submits that the petitioner is a regular customer to Muthoot Finance. M.O.1 was recovered on the confession of A1 from P.W.5, which was identified by P.W.1 and in view of the same, the Trial Court had rightly convicted the petitioner. Hence, prayed for dismissal of this petition.

5.Considering the submissions made and on perusal of the materials, it is seen that the claim of the petitioner that he is on the similar footing of A2 is not proper for the reason that A2 was standing far away in a bike and he had not participated in the chain snatching. Further, the pledged chain/M.O.1 was recovered from P.W.5/Branch Manager, Muthoot Finance, who confirms that the petitioner is a regular customer and he used to pledge jewels. M.O.1 identified by P.W.1 is the chain snatched from her. The petitioner is unable to give any explanation as to how the chain came to his possession. In view of the recovery of the chain from the petitioner, the Trial Court and the Lower Appellate Court confirmed the petitioner's conviction. In view of the same, this Court finds no reason to interfere with the conviction of the petitioner. However, considering that the fact that the petitioner started his life by pulling horse cart and now graduated as driver



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of mini load vehicle having three school going children lost his wife and he is only person to take care of the three children and further, after the occurrence the petitioner has not come to the adverse notice in any case, this Court is inclined to modify the sentence imposed on the petitioner. Hence, the conviction by the Trial Court is confirmed modifying the sentence to the period already undergone by the petitioner.

6. Accordingly, the criminal revision petition stands disposed of.

08.08.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse



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To

- 1.The Inspector of Police,
B-9, Saravanampatti Police Station,
Coimbatore.
- 2.The III Additional District and Sessions Judge,
Coimbatore.
- 3.The Judicial Magistrate No.II,
Coimbatore.
- 4.The Superintendent of Prisons,
Central Prisons,
Coimbatore.
- 5.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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