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Crl.R.C.No.12 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.12 of 2023
and Crl.MP No.68 of 2023

Aravindhakumar
S/o Loganathan,
No.F-6, NTC Colony, Marakkadai,
Coimbatore

Petitioner(s)

Vs

The State Rep By Its,
The Inspector Of Police,
E-3 Saravanampatti Police Station,
Coimbatore District

Respondent(s)

Prayer: Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C. to call for the records in Crl.A.No.172 of 2021 on the file of the III Additional District and Sessions Judge, Coimbatore and set aside the order dated 26.10.2022 confirming the conviction and the sentence passed by the I Additional Assistant Sessions Judge, Coimbatore in S.C.No.125 of 2015 by an order dated 08.11.2021 by allowing this revision.

For Petitioner(s) : Mr.K.Balasubramaniam
For Respondent(s): Mr.S.Udaya Kumar,
Govt. Advocate (crl.side)



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ORDER

The revision challenges the finding of conviction and sentence imposed by the courts below for the alleged offence under Section 397 of IPC.

2.1 It is the case of the prosecution that on 15.10.2013, at about 9.30 p.m., when the defacto complainant/PW1 was in her house, the petitioner entered the house and threatened the defacto complainant by showing a knife and cut her left neck and snatched 1 ½ sovereigns of gold chain of the defacto complainant and escaped in a bike bearing Regn.No.TN 37BY 9718 and thus committed the offence under Section 392 r/w 397 IPC.

2.2. On the complaint given by PW1, the case was registered and the final report was filed for the above said offence. The prosecution had examined PW1 to PW10 and marked Exs.P1 to P9, besides MOs 1 to 3.

2.3 The trial court, after considering the evidence adduced on the



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side of the prosecution, had convicted the petitioner for the offence stated above. The Appellate Court confirmed the findings of the guilty. and the sentence imposed by the trial court.

3. The learned counsel for the petitioner would submit that the evidence of PW1 is not believable, that on account of prior enmity, namely the petitioner had caused an accident in which PW1 was injured and had abused PW1; and to wreak vengeance, PW1 had lodged this complaint; that the recovery of the jewel also cannot be believed as the witnesses are unbelievable. The learned counsel also submitted that the courts below, had erroneously found the petitioner guilty of the offence under Section 397 IPC, as grievous hurt was not established.

4. The learned Government Advocate (crl.side), per contra submitted that the courts below had accepted the cogent and convincing evidence of PW1 and other witnesses and found the petitioner guilty; that in any case, no ground has been made out by the petitioner for interference in the above judgments in a revision and sought for dismissal of the revision.



5. Heard the learned counsel for the petitioner as well as learned

Government Advocate (crl.side) appearing for the respondent and perused the records.

6.1 As stated earlier, the prosecution had examined PW1 to PW10. PW1 is the victim; PW2 is her husband; PW3 is her mother; PW4 was residing in the first floor of the house where PW1 is residing; PW7 is the doctor who treated PW1 for her injuries; PW8 is the Sub-Inspector of Police who registered the FIR; PW9 & PW10 are the investigating officers; PW5 is the witness to the observation mahazar; PW6 is the witness to the arrest and confiscation of the accused.

6.2 The prosecution case primarily rest on the evidence of PW1. It is the version of PW1 that on 15.10.2013, when her husband was away from home, she saw the petitioner standing outside their house and it was raining. PW1 came out of the house and asked the petitioner if he wanted a towel and that the petitioner had asked for water. When PW1 went inside the house, the petitioner followed her and thereafter attacked her with knife and snatched the gold chain weighing 1½ sovereigns. PW1 had identified the petitioner in court.



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6.3 Both the courts below have believed the evidence of PW1 and there is nothing to disbelieve her testimony. That apart, it is seen that the seizure of the gold chain was also established by the prosecution by examination of PW6 & PW9. Both the witnesses have cogently stated about the seizure and nothing has been elicited in the cross examination of these two witnesses to disbelieve their version. PW4, the neighbour of PW1 would depose that on hearing the cry of PW1, he came down and saw PW1 standing in front of her house with injury in the neck. Therefore, PW4 corroborates the version of PW1.

6.4 In the above circumstances, this court is of the view that the prosecution has proved its case beyond reasonable doubt that the petitioner is guilty of the offence of robbery. However, the question is whether the petitioner is liable for the offence under 397 IPC. The petitioner was examined by PW7-doctor. PW7 had stated in his deposition that when he examined the victim / PW1, he found lacerated injury and a contusion. He had made entries in Ex.A6-Accident Register. He had not deposed that the injuries sustained by the victim was grievous in nature. The prosecution had not examined any other witness to prove



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that the injuries were grievous in nature. Though PW2 would state that when he saw PW1 at the hospital, there were eight sutures in the neck, his evidence is contrary to the evidence of PW7-doctor.

6.5 In the above facts, this court is of the view that the prosecution has only proved that the petitioner had caused hurt while committing the offence of robbery. Therefore, this court is of the view that the conviction for the offence under Section 397 IPC cannot be sustained, however the petitioner is guilty of the offence under Section 394 IPC.

7. Considering the facts and circumstances of the case, the age of the petitioner; the fact that there are no previous cases against the petitioner, this court is of the view that it would subserve the interest of justice, if the petitioner is sentenced to Two years Rigorous Imprisonment and directed to pay a fine of Rs.10,000/- and in default to suffer three months rigorous imprisonment.

8. With the above observations, this **Criminal Revision is Partly Allowed** and the order dated 26.10.2022 passed in in Crl.A.No.172 of 2021 by the III Additional District and Sessions Judge, Coimbatore,



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confirming the conviction and the sentence passed by the I Additional Assistant Sessions Judge, Coimbatore in S.C.No.125 of 2015 by an order dated 08.11.2021 is modified and the petitioner is convicted for the offence u/s 394 IPC and sentenced to undergo Two years Rigorous Imprisonment and to pay a fine of Rs.10,000/- and in default to suffer three months rigorous imprisonment. Consequently, connected Miscellaneous Petition is closed.

13.12.2024

Index : Yes/No

Neutral Citation : Yes/No

Speaking order/Non-speaking order
rgr

To

1.The III Additional District and Sessions Judge,
Coimbatore.

2. The I Additional Assistant Sessions Judge,
Coimbatore.

3. The Inspector Of Police,
E-3 Saravanampatti Police Station,
Coimbatore District.

4. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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