IN THE **HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**

MONDAY, THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 164 OF 2012

Criminal Revision Case under Section 397 and 401 of CrPC aggrieved by the Judgment dt.20-7-2011 passed in CrlA.No.102/2011 on the file of the Court of the Metropolitan Sessions Judge Hyderabad, preferred against the Judgment dated 10-02-2011 in C.C.No.398 of 2009 on the file of the court of the XVI Addl. Chief Metropolitan Magistrate, Hyderabad.

Between:

Mohd Fareeduddin, S/o Md. Muneeruddin Business R/o H.No.9-4-29/38/1/C, Hakeempet, Hyderabad.

...PETITIONER

AND

State of AP., PS Habeeb Nagar, Hyderabad, Rep.by its Public Prosecutor, High Court of A.P. Hyderabad.

...RESPONDENT

I.A. NO: 2 OF 2012(CRLRCMP. NO: 262 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the order dt.20-7-2011 and in CrlA.NO.102/2011 in Cr.NO.398/2009 on the file of the Metropolitan Sessions Judge Hyderabad, to release the Petitiner on bail Pending disposal of the Criminal Revision Case.

Counsel for the Petitioner : SRI SARWATH KHAN, FOR SRI. M A K MUKHEED

Counsel for the Respondent : SRI VIZARATH ALI,
ASST. PUBLIC PROSECUTOR.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E.V.VENUGOPAL

CRIMINAL REVISION CASE No.164 OF 2012

O R D E R:

The present Criminal Revision Case is filed aggrieved by the judgment dated 20.07.2011 in Criminal Appeal No.102 of 2011 on the file of the learned Metropolitan Sessions Judge, Hyderabad (for short, "the appellate Court") in confirming the judgment dated 10.02.2011 in C.C.No.398 of 2009 on the file of the learned XVI Additional Chief Metropolitan Magistrate, Hyderabad (for short, "the trial Court").

2. Heard Mr. Sarwath Khan, learned counsel representing Mr. M.A.K. Mukheed, learned counsel for the petitioner and Mr. Vizarath Ali, learned Assistant Public Prosecutor appearing for respondent State. Perused the record.

3. The brief facts of the case are that the petitioner/accused was alleged to have committed theft of the Hero Honda Passion bearing No. AP 9 AL 2609 along with other vehicles pertaining to other crimes pertaining to different police stations. Therefore, the accused was alleged to have committed the offence punishable under Section 379 of IPC.

4. The trial Court vide judgment cited *supra* found the accused guilty for the offence under Section 379 of IPC and sentenced him to undergo simple imprisonment for six months while directing to set off the remand period of 24 days. Aggrieved thereby, the petitioner preferred an appeal.

5. The appellate Court vide judgment cited *supra* dismissed the appeal confirming the judgment passed by the trial Court, while directing to issue NBW against the petitioner. Assailing the same, the present Revision.

6. Learned counsel for the petitioner submitted that the trial Court as well as the appellate Court failed to appreciate the evidence available on record in proper perspective and passed their respective judgments. Therefore, he seeks to set aside the impugned judgment.

7. Learned Assistant Public Prosecutor opposed the same and contended that both the Courts upon appreciating the oral and documentary evidence available on record in right perspective passed their respective judgments and the interference of this Court is unwarranted. Therefore, he seeks to dismiss the Revision.

8. On behalf of the prosecution, the trial Court examined PWs.1 to 4 and marked Exs.P1 to P5 and MO1. On behalf of the defence, none were examined and no document was marked. Upon careful scrutiny of the evidence of PWs.1 to 3, the trial Court observed that MO1 was stolen on 04.01.2008 and found to be in the possession of the accused on 06.01.2008. Moreover, there was no explanation from the accused about the said possession of vehicle. Therefore, as per the presumption under Section 114 of Indian Evidence Act, the accused may be presumed to be the thief or receiver of stolen property. In the instant case, the stolen property was received from the possession of the accused with a gap of one day from the date of occurrence of the incident. Therefore, the trial Court found that the accused was guilty of the alleged offence of theft and rendered the judgment cited *supra*.

9. The appellate Court upon re-appreciating the evidence available on record also found that the accused was unable to account for the possession of the subject vehicle. Furthermore, the accused was also alleged to have involved in four other crimes namely Crime Nos.439 of 2009 and 459 of 2007 of Miyapur Police Station, Crime No.1301 of 2007 of Banjara Hills Police Station

and Crime No.506 of 2007 of Humayun Nagar Police Station. Therefore, the learned Judge confirmed the findings of the trial Court and passed the impugned judgment cited *supra.*

10. A perusal of the record shows that this Court vide order dated 03.02.2012 suspended the sentence of imprisonment alone imposed against the petitioner and directed to enlarge him on bail on his executing a personal bond for Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned XVI Additional Chief Metropolitan Magistrate, Hyderabad. Thereafter, the matter underwent several adjournments.

11. In the present case on hand, both the Courts held that the accused was guilty of the offence under Section 379 of I.P.C, which finding, in my considered view, does not call for interference, in the exercise of revisional jurisdiction under Section 397 Cr.P.C.

12. There are no grounds much less valid grounds to interfere with the well considered judgments of both the Courts and accordingly, this Revision is liable to be dismissed.

13. Having regard to the submissions made by both the learned counsel and upon considering the fact that the petitioner

underwent mental agony by roaming around the trial Court as well as the appellate Court, this Court deems it appropriate to modify the sentence imposed against the petitioner and reduce the sentence to the period of imprisonment already undergone by him.

14. Except the above modification, in all other aspects, the Criminal Revision Case stands dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- M. RAMANA KRISHNA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Metropolitan Sessions Judge Hyderabad.
2. The XVI Addl. Chief Metropolitan Magistrate, Hyderabad.
3. Two CCs to PUBLIC PROSECUTOR, High Courtk for the State of Telangana at Hyderabad. [OUT]
4. One CC to SRI. M A K MUKHEED Advocate [OPUC]
5. Two CD copies.

Cvk/PR

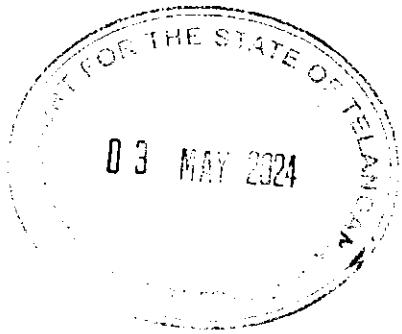
CHF

HIGH COURT

DATED:19/02/2024

ORDER

CRLRC.No.164 of 2012



CRLRC IS DISMISSED.

8 CHR 8/4/24