



Crl.R.C.No.338 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.338 of 2025

and

Crl.M.P.No.3365 of 2025

1. Babu

2. Pradeepkumar

... Petitioners

..VS..

Inspector of Police,
Railway Police Station,
Perambur, Chennai.

... Respondent

Criminal Revision Case filed under Sections 438 read with 442 BNSS, to call for the records relating to the case in C.C.No.914 of 2014 dated 19.10.2022 on the file of the XVI Metropolitan Magistrate, George Town, Chennai and the same was confirmed by the learned XV Additional Sessions Judge, Chennai, in Crl.A.No.328 of 2022 order dated 09.01.2025 and to set aside the conviction and sentence and acquit the petitioners/appellants/accused.

For Petitioners	:	Mr.T.I.Ramanathan
For Respondent	:	Mr.S.Sugendran Additional Public Prosecutor



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ORDER

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This Criminal Revision Petition has been filed against the judgment dated 09.01.2025 passed in Crl.A.No.328 of 2022 by the learned XV Additional Sessions Judge, Chennai, confirming the judgment of conviction and sentence passed in C.C.No.914 of 2014 dated 19.10.2022 by the learned Metropolitan Magistrate, George Town, Chennai.

2. The case of the prosecution is that, on 20.02.2013 at around 10.15 p.m., when the Alappuzha-Dhanbad Express (Train Number 13352) was crossing in between the Basin Bridge Railway Station, A1 and A2 assaulted the passengers with hands and snatched money from them and A3 threatened and assaulted one Sengalvarayan with knife point and snatched three sovereigns of gold chain and three rings weighing one sovereign each from him and that they were alighting from the running train and escaped from that place. Hence, based on the complaint given by one Sengalvarayan-*defacto* complainant, the respondent-Police registered a case in Crime No.134 of 2013 against the



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accused persons for the offence punishable under Section 394 read with 34 IPC. After completion of investigation, the respondent-Police filed a final report and the same was taken on file on in C.C.No.914 of 2014 by the learned XVI Metropolitan Magistrate, George Town, Chennai. It is to be noted that the case against A2-Suresh was separated and tried in C.C.No.640 of 2017.

3. After receipt of the final report, the learned Magistrate questioned A1 and A3 for the charges under Section 394 read with 34 IPC, which was denied by the accused and pleaded not guilty and to be tried.

4. In order to prove the case before the trial Court, on the side of the prosecution, as many as 12 witnesses were examined as P.W.1 to P.W.12 and 17 documents were marked as Exs.P1 to P17 and no material objects were marked. On the side of the defence, no oral evidence was adduced and no documentary evidence was produced.

5. After appreciating the entire materials available on record, the



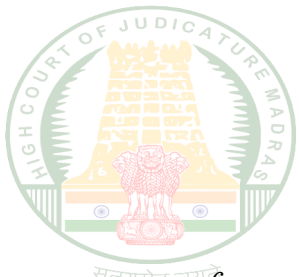
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trial Court came to the conclusion that the prosecution had proved its case beyond reasonable doubt and the petitioners-A1 and A3 were found guilty for the offence under Section 392 IPC and convicted and sentenced each of the accused for the offence under Section 392 IPC and to undergo rigorous imprisonment for a period of two months and to pay a fine of Rs.1000/- each, in default, to undergo simple imprisonment for a period of one month, to each of the accused.

6. Challenging the said judgment of conviction and sentence, the petitioners-A1 and A3 preferred an appeal in Crl.A.No.328 of 2022 before the learned XVI Metropolitan Magistrate, George Town, Chennai. The Appellate Court had re-appreciated the entire materials and dismissed the appeal and confirmed the conviction and sentence passed by the trial Court. Aggrieved by the same, the petitioners-A1 and A3 have filed the present revision petition before this Court.

7. Learned counsel for the petitioners submitted that a false case has been foisted against the petitioners-A1 and A3. As per the version of the prosecution, on the date of occurrence, i.e., on 20.02.2013, the *de-*



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facto complainant-P.W.2 and his sister Dhanalakshmi-P.W.5 were travelling in the train, but to substantiate the same, the prosecution had not produced the collected train tickets of P.W.2 and P.W.5 and passengers chart maintained by the Railway Department. He further submitted that the respondent-Police had not recovered the alleged snatched properties and no identification parade was conducted by the respondent-Police to identify the accused persons. Even as per the prosecution, they have not identified the place/shops where the accused persons sold the snatched properties and where they purchased the recovered properties out of sale proceeds of the snatched properties. He further submitted that the prime witnesses have turned hostile, except P.W.2 and P.W.5. The signatures in the documents alone have been marked as exhibits, but the contents of the documents were not proved by the prosecution. Therefore, the prosecution has not proved its case beyond reasonable doubts and they have also not established as to how they fixed the petitioners as accused persons. The trial Court failed to appreciate the material evidence that the prosecution had miserably failed to substantiate the charges levelled against the petitioners with



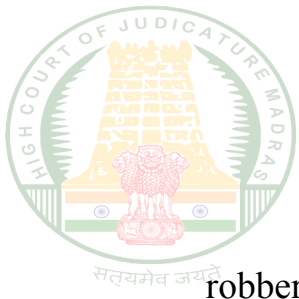
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presumption and assumption and convicted and sentenced the petitioners.

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In appeal, the appellate Court, as a fact finding Court, failed to re-appreciate the entire evidence and simply endorsed the view of the learned Magistrate and dismissed the appeal, which warrants interference by this Court.

8. Learned Additional Public Prosecutor appearing for the respondent-Police submitted that, on the date of occurrence, the *de-facto* complainant-P.W.2 and his sister-P.W.5 were travelling in the train, and at that time, the petitioners herein and other accused entered into the train and snatched jewels and money from P.W.2 and P.W.5. Based on the complaint given by P.W.2, the respondent-Police registered the case and only later, they collected the list of the history-sheeters and went to Railway Station and confirmed that the petitioners herein and other accused have snatched the jewels and money from P.W.2. Thereafter, the petitioners were secured. He further submitted that during trial, P.W.2 and P.W.5 were identified the accused persons in the Court and also the petitioners themselves have made confession statements and admitted the



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robbery and also admitted that they sold the snatched properties and out of sale proceeds, they purchased the properties and the same were recovered by the respondent-Police. Based on the confession statement and after conducting identification and only after thorough investigation, the respondent-Police filed the final report before the Court below. Both the Courts below rightly appreciated and re-appreciated the entire oral and documentary evidence and convicted and sentenced the petitioners. As there is no merit in the present revision petition, the same may be dismissed.

9. Heard both sides and perused the materials available on record.

10. It is settled proposition of law that normally in revision, the revision Court will not interfere with the factual findings and the revision Court cannot sit in the arm chair of the appellate Court and re-appreciate the materials. However, the revision Court has to see as to whether there is any perversity or infirmity in appreciation of the oral and documentary evidence and also in the judgments of the Courts below, and only if there is improper appropriation of evidence, it can always interfere with the



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findings of the Courts below.

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11. The main defence taken by the learned counsel for the petitioners is that the petitioners-A1 and A3 are unknown persons to the *de-facto* complainant-P.W.2 and his sister-P.W.5 and the prosecution ought to have properly conducted identification parade to identify the accused. As per the confession statement of accused persons, the prosecution recovered some materials from the house of the petitioners, but the prosecution has not proved their case to show that the recovered properties are either stolen properties or subject matter properties. As per the prosecution, while giving confession statements, the petitioners informed that they have sold the stolen properties, but the prosecution has not identified the place where the snatched properties were sold and also failed to trace out the persons, from whom the petitioners sold the snatched properties. Further, the recovery mahazar did not support the case of the prosecution. Therefore, there is a defect in conducting investigation by the Investigating officer. However, both the Courts failed to appreciate the entire materials on record in proper perspective and came to the conclusion that the petitioners-A1 and A3 have



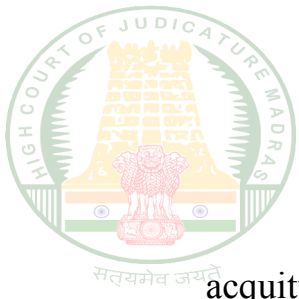
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committed the charged offence(s) and convicted and sentenced the petitioners.

12. It is settled proposition of law that defect in investigation will not always be fatal to the case of the prosecution. However, in the instant case, the prosecution has not proved that identification parade was properly conducted in the manner known to law and they have also not identified the place where the stolen properties were sold and the persons from whom they purchased that stolen properties. The petitioners are unknown persons to the complainant and they were not arrested on the spot, hence, non conducting of identification parade itself is a fatal to the case of the prosecution and they have also not proved as to whether the petitioners have sold the stolen properties.

13. This Court, on a perusal of entire material evidence, finds that there is perversity in the findings of both the Courts below and hence the conviction and sentence imposed on the petitioners-A1 and A3 by the learned XVI Metropolitan Magistrate, George Town, Chennai in C.C.No.914 of 2014 are set aside and the petitioners-A1 and A3 are



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acquitted of the charge(s). Fine amount already paid, if any, shall be refunded to them. Since it is reported that the petitioners-A1 and A3 are in jail, they are directed to be set at liberty forthwith, unless their detention is required in connection with any other case. The bail bond, if any executed by the accused persons, shall stand cancelled. The properties that were recovered from the house of the petitioners are order to be returned to the petitioners, if the said properties are not required for any other case.

14. In the result, this Criminal Revision Petition is allowed. Consequently, connected miscellaneous petition is closed.

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Note : Issue Order Copy on 14.03.2025

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Case Citation : Yes / No

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To

1. The XVI Metropolitan Magistrate,
George Town, Chennai.
2. The XV Additional Sessions Judge,
Chennai.
3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
- 4 The Public Prosecutor,
High Court, Madras.
5. The Inspector of Police,
Railway Police Station,
Perambur, Chennai.



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P.VELMURUGAN, J.

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