



CRL.R.C.Nos.687 and 697 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2025

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.Nos.687 and 697 of 2023

Venkatesan

... Petitioner in **Crl.R.C.No.687 of 2023**

Thangam @ Krishnan

... Petitioner in **Crl.R.C.No.697 of 2023**

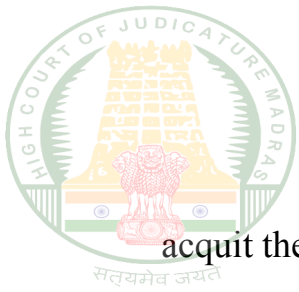
Vs.

The State By
The Inspector of Police,
Deevattipatti Police Station,
Salem District.

(Crime No.161/2015)

... Respondent in **both Crl.R.Cs**

PRAYER IN Crl.R.C.No.687 of 2023: Criminal Revision case has been filed under Section 397 read with Section 401 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the Judgment dated 09.02.2023 passed by the learned I Additional District and Sessions Judge, Salem, in C.A.No.48 of 2022 and for modifying sentence for offence under 392 Cr.P.C to 5 years instead for 7 years and to pay fine Rs.3000/- i/d 1 year and confirming the sentence for offence under Section 452 for 3 years and to pay fine Rs.2000/- i/d. 6 months S.I, by modifying the sentence passed in S.C.No.34 of 2017 by Judgment dated 22.04.2022 for the offence under Section 392 Cr.P.C to 7 years and confirming to pay fine of Rs.3000/- i/d 1 year S.I and for offence under Section 452 for 3 years and to pay fine Rs.2000/- i/d 6 months S.I under Section 392 IPC passed by the learned Assistant Sessions, Omalur, Salem District dated 22.04.2022 and



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acquit the petitioner.

PRAYER IN CrI.R.C.No.697 of 2023: Criminal Revision case has been filed under Section 397 read with Section 401 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the Judgment dated 09.02.2023 in C.A.No.48 of 2022 on the file of the first Additional District and Sessions Judge, Salem by confirming the conviction of the Trial Court Judgment dated 22.04.2022 made in S.C.No.34 of 2017 on the file of the Assistant Sessions Judge, Omalur, Salem District and acquit the revision petitioner.

In CrI.R.C.No.687 of 2023

For Petitioner : Mr.M.G.Udayashankar

For Respondent : Mr.A.Gopinath

Government Advocate (Crl.side)

In CrI.R.C.No.697 of 2023

For Petitioner : Mr.V.M.R.Rajentran

For Respondent : Mr.A.Gopinath

Government Advocate (Crl.side)

COMMON ORDER

These Criminal Revisions cases have been filed to set aside the Judgment dated 09.02.2023 in C.A.No.48 of 2022 on the file of the I Additional District and Sessions Judge, Salem, thereby modifying the conviction and sentence imposed in S.C.No.34 of 2017 dated 22.04.2022, on the file of the Assistant Sessions Judge, Omalur, Salem District.

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

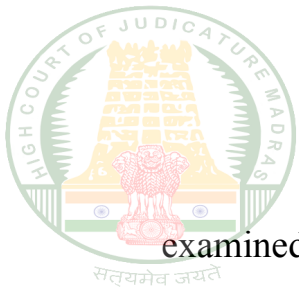


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3. The case of the prosecution is that, on 11.03.2015, at about 04.20 p.m, when the defacto complainant was in her house at Vedappan Kattuvalavu, Deevattipatty, the accused trespassed into her house under the pretext of requesting water, thereby diverting her attention and committed robbery at knife point. It is alleged that the first accused caught hold of her hair, while the second accused threatened her with knife and forced to give all the jewels. Due to fear of death, the defacto complainant had handed over two chains, one pair of ear studs and ring, totally weighing 7 sovereigns of gold. Thereafter, the accused also searched the bureau and took away 1.25 kgs of silver ornaments and a cell phone worth Rs.75,000/-. Thereafter, they locked the door and flew away. Hence, the complaint.

4. On the said complaint, the respondent registered FIR in Crime No.161 of 2015 for the offences punishable under Sections 450, 392 read with Section 397 of IPC. After completion of investigation, filed final report and the same has been taken cognizance by the Trial Court in S.C.No.34 of 2017.

5. In order to bring the charges to home, the prosecution had examined PWs.1 to 10 and marked Exs.P1 to P10. On the side of the accused, no one was



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examined and no document was marked. On perusal of oral and documentary

WEB COPY evidences, the trial Court convicted the accused for the offences punishable under Sections 452 and 392 of IPC and sentenced them to undergo three years rigorous imprisonment and pay a fine of Rs.2000/-, in default to undergo six months simple imprisonment for the offence punishable under Section 452 of IPC and also sentenced to undergo seven years rigorous imprisonment and pay a fine of Rs.3000/-, in default to undergo one year simple imprisonment for the offence under Section 392 of IPC. Aggrieved by the same, the accused preferred appeal in C.A.No.48 of 2022, on the file of the I Additional District and Sessions Judge, Salem and the same was also dismissed, confirming the order of conviction and modified the sentence imposed by the Trial Court. Aggrieved by the same, both the accused filed separate revisions before this Court.

6. The learned counsel for the petitioner in Crl.R.C.No.687 of 2023 submitted that there are numerous contradictions between the evidence of PW1 and other witnesses. PW1 is an illiterate woman and is unable to read or write the Tamil or English. She can understand only Tamil. The scribe of the complaint turned hostile and therefore, Ex.P1 viz., the complaint lodged by the defacto complainant, is doubtful. Further, the recovery was made after a lapse of one year from the date of crime that too in the form of ingots. Therefore, the

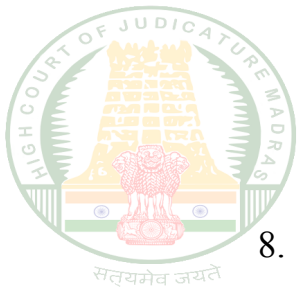


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prosecution has failed to prove the case beyond any reasonable doubt. He

WEB COPY further submitted that the Trial Court initially convicted the petitioner for the offence under Section 392 of IPC and sentenced him to undergo seven years rigorous imprisonment. The petitioner was also convicted for the offence under Section 452 of IPC and sentenced to undergo three years rigorous imprisonment. However, the first appellate Court modified the sentence for the offence under Section 392 of IPC from seven years to five years.

7. The learned counsel for the petitioner in Crl.R.C.No.697 of 2023 submitted that even according to the case of the prosecution, no recovery was made from the petitioner. The prosecution has miserably failed to establish the case of the prosecution beyond reasonable doubt. It was further contended that PW1 deposed that Ex.P1, the complaint, was written at the Police Station by the Police personnel. However, PW.8 deposed that, PW1 came to the Police Station with a written complaint in hand. Further, there is a contradiction between the evidence of PW.1, PW.2, PW.7 and PW.8. Therefore, they have not supported the case of the prosecution. Even then, without considering the facts and circumstances, both the Courts convicted the petitioner for the offence punishable under Sections 392 and 452 of IPC.



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8. Heard the learned counsel on either side and perused the materials

available on record.

9. The victim was examined as PW.1. A perusal of the deposition of PW.1 categorically revealed that on 11.03.2015, the accused trespassed into her house by diverting her attention under the pretext of asking water and at knife point, they robbed her jewels and had also taken silver articles from the bureau and a mobile phone. Immediately, the complaint was lodged and the same was marked as Ex.P1. In fact, Ex.P1 was either typed or written in the police station is not fatal to the case of the prosecution, since the victim's evidence is the best evidence. Pursuant to the arrest and confession statement of the accused, there was recovery from the accused.

10. The Village Administrative Officer was examined as PW.7, who was a witness to the arrest and recovery. She deposed regarding the arrest of the accused and recovery of the stolen articles. As per their confession statement, the stolen gold jewellery was melted and converted as ingots. Therefore, the prosecution had proved the case beyond any reasonable doubt. The minor discrepancies in the evidence of the witnesses would not cause any prejudice to



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the petitioners and also cannot be considered fatal to the case of the prosecution.

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11. In view of the above, both the Courts had rightly convicted the petitioners for the offences punishable under Sections 452 and 392 of IPC. Therefore, this Court finds no infirmity or illegality in the Judgment dated 09.02.2023 in C.A.No.48 of 2022 on the file of the first Additional District and Sessions Judge, Salem by confirming the conviction and modifying the sentence passed in the order in S.C.No.34 of 2017 dated 22.04.2022 on the file of the Assistant Sessions Judge, Omalur, Salem District.



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WEB COPY 12. Accordingly, these Criminal Revision Cases are dismissed.

16.06.2025

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

1. The I Additional District and Sessions Judge, Salem.
2. The Assistant Sessions Judge,
Omalur, Salem District.
3. The Inspector of Police,
Deevattipatti Police Station,
Salem District.
4. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J

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