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Crl.R.C.No.672 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.06.2025

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.No.672 of 2023

Chinnathambi

... Petitioner

Vs.

The State rep. by
Inspector of Police,
Kovilpalayam Police Station,
Coimbatore District

...Respondent

Criminal Revision Case filed under Sections 397 & 401 of Cr.P.C.,
to set aside the Judgment dated 05.12.2020 in Crl.A.No.342 of 2018 on the
file of learned V Additional District and Sessions Judge, Coimbatore
confirming the conviction and sentence made in the Judgment dated
17.07.2018 in C.C.No.367 of 2016 on the file of the learned Judicial
Magistrate No.II, Coimbatore.

For Petitioner : Mr.S.N.Arunkumar

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)



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ORDER

The present Revision has been preferred as against the Judgment passed in Crl.A.No.342 of 2018 dated 05.12.2020 on the file of the learned V Additional District and Sessions Judge, Coimbatore thereby confirming the order of conviction and sentence made in C.C.No.367 of 2016 dated 17.07.2018 on the file of the learned Judicial Magistrate No.II, Coimbatore for the offences under Sections 457 and 380 read with 34 of IPC.

2. The case of the prosecution is that on the intervening night of 19.03.2016 and 20.03.2016, at about 12 O'clock midnight, the petitioner along with other others had committed criminal trespass into the premises of the defacto complainant with an intention to commit break open and theft. The petitioner along with other accused had broke open the lock of the premises of the defacto complainant and stolen a sum of Rs.30 Lakhs of cash and two Silver Kuthuvilaku and two laptops. After completion of investigation, a final report has been filed and the police registered a case for offences under Sections 457 and 380 read with 34 of IPC and the same is taken cognizance.

3. On a perusal of oral and documentary evidence, the trial court



found that three accused are involved in this case and since the 3rd accused died, awarded punishment as against the accused 1 and 2. The trial court sentenced the accused 1 and 2 to undergo one year rigorous imprisonment and to pay a fine of Rs.2,000/- in default, to undergo simple imprisonment for one month for offence under Section 457 of IPC and sentenced two years rigorous imprisonment and to pay a fine of Rs.3,000/- in default, to undergo simple imprisonment for one month for the offences under Section 380 read with 34 of IPC. Aggrieved by the same, the petitioner/A.2 preferred an appeal and the same was also dismissed confirming the order of conviction and sentence awarded by the trial court, hence the petitioner has come up with the present Revision.

4. On the side of the prosecution, witnesses P.W.1 to P.W.6 were examined and Exhibits Ex.P.1 to Ex.P.10 were marked. On the side of the petitioner, no one was examined and no documents were marked.

5. The learned counsel for the petitioner would submit that the petitioner is arrayed as 2nd accused. The 3rd accused already died. Even according to the case of prosecution, the petitioner assisted the 1st accused to commit theft. P.W.5, who was examined as Mahazar witness

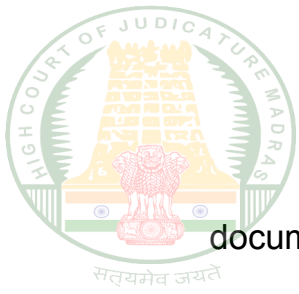


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deposed that the confession statement was handwritten one. However, Appellate Court had found that the confession statement of the petitioner is a typed one. Further, according to the case of prosecution when the complaint was lodged at the initial stage, there was no mentioning about the locker, however, subsequently, the defacto complainant lodged another complaint stating that the locker was also missing. Therefore, these discrepancies are fatal to the case of prosecution and the conviction and sentence imposed by the trial court, confirmed by the appellate court cannot be sustained.

6. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent submits that in order to prove the charges, the prosecution had examined P.Ws.1 to 6. The Mahazar witness was examined as P.W.5 and as per his confession statement, there was recovery of Rs.30 Lakhs from accused 1 to 3 and the other stolen articles. As far as the petitioner is concerned, he is arrayed as 3rd accused and he was involved in six criminal cases including robbery, thereby pleaded to dismiss the petition.

7. Heard the learned counsel on either side and perused the



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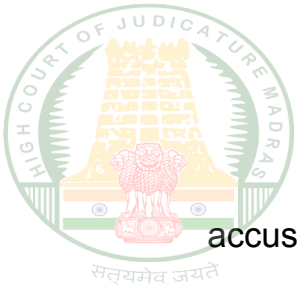
documents placed on record.

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8. It is pertinent to note that totally three accused are involved in this case, in which the petitioner is arrayed as 2nd accused / A.2. P.W.1, who had lodged a complaint deposed that there was broke open and theft of Rs.30 Lakhs of cash and two silver kuthuvilakku along with two laptops in the premises of Benzar Equipments India Private Limited situated at Velanaipetti, Coimbatore District.

9. Further, Mahazar witness was examined as P.W.5, who stood as witness to the arrest and recovery of cash of Rs.8 Lakhs from the petitioner and the remaining amount from other accused persons. Further, a cutting player and one silver kuthuvilaku were also recovered from the petitioner. The learned counsel for the petitioner specifically contended that though the defacto complainant submitted that CCTV wires were disconnected and the accused have committed theft, prosecution failed to prove that damage has been caused to CCTV wires or the cameras.

10. Besides the above, a perusal of the records reveals that the



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accused have cut down the CCTV Camera wires and completely disconnected the CCTV Cameras, thereafter, they broke open the locker and tress passed into the premises to commit theft. The accused looted locker, two silver kuthuvilaku and two laptops. The stolen goods were recovered from the accused. Therefore, the prosecution categorically proved the charges under Sections 457 and 380 r/w 34 of IPC. That apart, the petitioner is a habitual offender and committed similar type of offences including robbery.

In view of the above, this Court finds no reason to interfere with the Judgment of conviction and sentence imposed by the trial court and the appellate court. Accordingly, the present Revision petition fails and the same is dismissed.

11.06.2025

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking order
ssd

To

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1. The V Additional District and Sessions Judge,
Coimbatore

2 The Judicial Magistrate No.II,
Coimbatore.

3. The State rep. by
Inspector of Police,
Kovilpalayam Police Station,
Coimbatore District

4. The Public Prosecutor,
High Court, Madras

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G.K.ILANTHIRAIYAN, J.,



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