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CrI.RC.No.779 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.RC.No.779 of 2022

Kanmani @ Balamani, F/aged 40,
W/o.Late Perumalsamy,
Alarijana Colony, Arugampalayam,
Sulur Taluk, Coimbatore District.

... Appellant/Accused

Vs.

The State Rep By,
Inspector of Police,
Sulur Police Station,
Crime No.1525 of 2014.

... Complainant/Respondent

Prayer: Criminal Revision Petition has been filed under Section 397 and 401 of Cr.P.C., pleaded to allow the revision petition and consequently set aside the order passed by the Learned III Additional District and Sessions Judge, Coimbatore in CrI.A.No.177 of 2016 dated 11.02.2022 which confirmed the judgment and order dated 18.11.2016 passed in S.C.No.19 of 2015 on the file of the II Assistant Session Judge, Coimbatore.

For Petitioner : Mr.R.Vinayaga Vinshu

For Respondent : Mr.L.Baskaran,
Government Advocate, (CrI.Side)



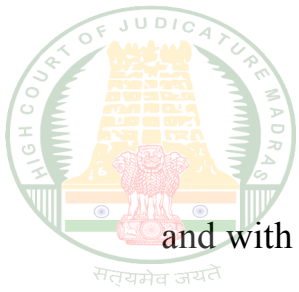
ORDER

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The petitioner/accused was convicted by the trial Court in S.C.No.19 of 2015, by judgment dated 18.11.2016, for the offence under Section 394 I.P.C read with 397 of I.P.C and sentenced to undergo 7 years R.I and to pay a fine of Rs.5000/-, in default to undergo two months R.I.

2. Aggrieved against the same, the petitioner has filed an appeal in C.A.No.177 of 2016, before the Sessions Judge. The Sessions Judge by judgment dated 11.02.2022, dismissed the appeal, confirming the conviction and sentence imposed by the trial Court. Against which, the present revision has been filed.

3. The gist of the prosecution case is that on 08.07.2014, at about 5:30 p.m., P.W.1, was standing near her house when the petitioner/accused approached and asked for water. When P.W.1 went inside to bring water, the petitioner/accused followed her and attempted to snatch her 3-sovereigns gold chain. When resisted, she was pushed inside, dragged into the pooja room and attacked her forehead and the back of her head with a vegetable-cutting instrument



and with pooja lamp. The petitioner/accused snatched the chain and ran out of the house.

4. P.W.1, Susila, the defacto complainant, raised alarm, P.W.2 and P.W.3, her neighbours, rushed to the scene saw the accused running away. P.W.1 was then taken to the hospital, where P.W.7, the Casualty Doctor, treated her. The Information was sent from the hospital to P.W.9, the Sub-Inspector of Police, who came to the spot, received the complaint and registered the F.I.R. P.W.10 took up investigation, visited the scene of the occurrence, prepared the observation mahazar, rough sketch, examined the witnesses at the scene and on the next day (09.07.2014) at about 02:00 p.m., arrested the accused. On arrest, she gave a confession in the presence of P.W.6 and the gold chain of P.W.1 was recovered. An identification parade was then conducted by the Learned Judicial Magistrate (P.W.8) and P.W.1 identified the petitioner as the person who assaulted her and snatched her chain.

5. After completion of investigation, charge sheet filed. During the trial, the prosecution examined 10 witnesses (P.W.1 to P.W.10), marked 17

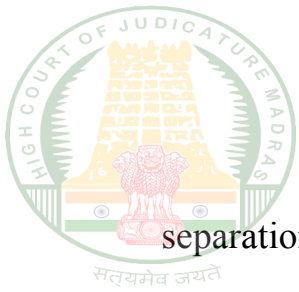


Exhibits (Ex.P.1 to Ex.P.17) and 2 material objects (M.O.1 and M.O.2) and gold chain (M.O.3).

6. The trial Court, on conclusion of the trial, convicted the petitioner, confirmed by the Sessions Court, as stated above.

7. The Learned Counsel for the petitioner submitted that in this case the alleged occurrence said to have taken place on 08.07.2014 at about 5.30 p.m., but the complaint was lodged only between 10.00 p.m to 11.00 p.m., with a delay. Though, it is projected that P.W.1, after her assault, was immediately taken to the hospital by P.W.2 and P.W.3. P.W.7 examined her but no reason given for the delay in lodging the complaint.

7.1. In this case, P.W.1's sister Chitra was married to one Kalaisamy and but they had difference of opinion, Chitra had left the matrimonial home and she is living in Dharmapuri, to assist Kalaisamy and his daughter Sathya, P.W.1 was staying in the house of Kalaisamy, who is employed in the D.S.P office. Kalaisamy having relationship with the petitioner that is the reason for his wife



separation. P.W.1 coming to know about it and staying in the house of

Thiru.Kalaisamy, she had ensured that the relationship between the petitioner and Kalaisamy does not continue, aggrieved over the same, the petitioner had come and questioned P.W.1 which has been projected as though the petitioner had committed chain-snatching and attacked the P.W.1 with a deadly weapon.

7.2. P.W.2 and P.W.3 are neighbours, known person to P.W.1. It is to be seen M.O.3 chain is intact. Had it been a chain snatch and P.W.1 resisted the same, the chain would have been cut into pieces, but it is not so, which is admitted by P.W.1, which would go to show that P.W.1 falsely implicated in this case. P.W.7, the doctor who examined the P.W.1, had issued the wound certificate Ex.P.7, in which P.W.7 a false statement recorded with regard to identification of the petitioner. However, P.W.1, P.W.2 and P.W.3 all admit that the petitioner are known to them. It is only an extramarital affair between the petitioner with Kalaisamy which landed her in the above case.

7.3. The petitioner has no bad antecedents and after the dismissal of the appeal, she is in prison for three years and one month, with 171 days as an



under trial. In total, she has been in prison for three years and eight months.

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8. The Learned Government Advocate (Crl.Side) for the respondent, on the other hand, opposes the petitioner's contention, stating that the both Courts below confirmed the conviction of the petitioner. The petitioner's identity established through the identification parade, marked as Ex.P.8. P.W.8, the Judicial Magistrate, confirmed that the petitioner identified P.W.1. During the identification parade, the petitioner did not raise any objection and stated P.W.1 was known to her. The identification parade confirms identity of the petitioner.

8.1. The Learned Government Advocate (Crl.Side) further submitted that, based on the complaint from P.W.1 and the information received from the Government Hospital, P.W.9 visited the hospital, recorded the statement marked as Ex.P.1 and subsequently registered F.I.R (Ex.P.12). P.W.10 took over investigation, visited the scene of occurrence, examined the neighbours P.W.2 and P.W.3 and prepared the observation mahazar and rough sketch in the presence of P.W.5. P.W.4, a local resident, confirm he chased the accused/petitioner immediately after the incident but could not catch her.



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8.2. The Investigating Officer visited the hospital, recorded P.W.1's statement and collected medical records, Ex.P.7 from P.W.7. The accused arrested on 09.07.2014 at around 2:00 p.m. in the presence of P.W.6. The accused gave confession (Ex.P.14) in the presence of P.W.6 and M.O.3 (chain) was recovered. In this case, the weapons M.O.1 and M.O.2 collected from the scene of occurrence and in the presence of P.W.5. Ex.P.10 and Ex.P.11 identification parade report. On conclusion of investigation charge sheet filed in this case. During trial, P.W.1 to P.W.10 examined and Ex.P.1 to Ex.P.17 and M.O.1 to M.O.3 marked.

8.3. In this case, P.W.1 confirmed that the petitioner is the person who attacked her and snatched her chain and the occurrence took place inside her house. P.W.2 to P.W.4 saw the accused running away from the house of P.W.1. The casualty doctor P.W.7 confirms the injuries sustained by the victim (P.W.1) and on the arrest of the accused, gold chain (M.O.3) recovered. Thus, all events proved by the prosecution and the trial Court convicted the petitioner, imposing the minimum sentence of 7 years of rigorous imprisonment (R.I.). The petitioner, having committed a grievous offence, cannot be shown any leniency.



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9. Considering the submissions and on perusal of the material records of the case, this Court finds that before the trial Court, P.W.1, the victim, identified the petitioner is the person who entered her house, attacked her using M.O.1 and M.O.2 and dragged her into the pooja room, snatched gold chain (M.O.3), later recovered from the petitioner in the presence of P.W.6. The petitioner was identified by P.W.1 during the identification parade. P.W.8, the Judicial Magistrate, conducted the test identification parade and the same recorded in Ex.P.10 and Ex.P.11. The injury sustained by P.W.1 found grievous in nature, confirmed by P.W.7, the Doctor who also testified that such injury could be caused using M.O.1 vegetable cutting device (*Aruvamanai*).

10. Thus, in this case, recovery, identification and grievous injuries sustained all proved by the above evidence. Both the Courts below rightly convicted the petitioner, finding that the prosecution has established the case beyond all reasonable doubt.



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11. In view of the above, this Court finds that the offence grievous in nature and no reason to interfere with the judgment of the Courts below.

12. Accordingly, this *Criminal Revision Case is dismissed* and the judgment of the trial Court in S.C.No.19 of 2015 by the Learned II Assistant Session Judge, Coimbatore, confirmed.

28.03.2025

Speaking order/Non-speaking order

Index : Yes/No.

Neutral Citation : Yes/No.

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To,

1. The III Additional District and Sessions Judge, Coimbatore.
2. The II Assistant Session Judge, Coimbatore.
3. The Inspector of Police, Sulur Police Station, Coimbatore.
4. The Section Officer, Criminal Section, High Court, Madras.
5. The Public Prosecutor, High Court, Madras.



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M.NIRMAL KUMAR, J.

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