



CRL.R.C.No.1335 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2025

CORAM

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

Crl.R.C.No.1335 of 2023

1. M.Balamurugan
2. Ashokkumar

... Petitioners

Vs.

State Rep. By its
The Inspector of Police,
Erode North Police Station,
Crime No.79 of 2008

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 read with 401 of the Code of Criminal Procedure, to set aside the judgment in Crl.A.No.222 of 2018 dated 27.01.2020 of the first Additional District and Sessions Judge, Erode confirming the order passed by the Principal Assistant Sessions Judge, Erode in SC.No.69 of 2008 dated 29.06.2018 and call for the records and acquit the petitioners from all the charges.

For Petitioners : Mr.S.Chendur Eashwaran

For Respondent : Mr.A.Gopinath

Government Advocate (Crl.side)

ORDER



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This Criminal Revision case has been filed as against the judgment in

WEB Crl.A.No.222 of 2018 dated 27.01.2020 on the file of the first Additional District and Sessions Judge, Erode, thereby confirming the order passed by the Principal Assistant Sessions Judge, Erode in SC.No.69 of 2008 dated 29.06.2018, thereby convicting the petitioners for the offence punishable under Section 395 of IPC.

2. The case of the prosecution is that on 28.01.2008, at about 02.30 p.m, all the accused came on their motor cycles and committed dacoity by jointly robbing of 19.¾ sovereigns of gold jewels from the house of the defacto complainant, which were kept in a secret drawer of a wooden cot in the bedroom. It was further alleged that A1 to A3 trespassed into the house and committed the dacoity. A4 to A8 stood outside, guarding the entrance gate of the defacto complainant's house to facilitate the commission of offence. Hence, the complaint.

3. On receipt of the complaint, the respondent registered FIR in Crime No.79 of 2008 for the offence punishable under Sections 341, 395 read with Sections 397 and 450 of IPC. After completion of investigation, filed a final report and the same has been taken cognizance by the Trial Court in SC.No.69



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of 2008.

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4. In order to bring the home the charges, the prosecution had examined PWs.1 to 14 and marked Exs.P1 to 36. On the side of the accused, they had examined DWs.1 and 2 and marked Exs.D1 to 6. The prosecution also produced MOs.1 to 22. On perusal of oral and documentary evidence, the Trial Court convicted the petitioners for the offence under Section 395 of IPC and sentence them to undergo three years rigorous imprisonment and to pay a fine of Rs.1000/-, in default to undergo one month imprisonment. Aggrieved by the same, the petitioners preferred an appeal and the same was dismissed, confirming the conviction and sentence imposed by the Trial Court. Hence, this revision.

5. The learned counsel for the petitioners would submit that the petitioners are arrayed as A6 and A7. Pending this revision, the second petitioner died. The first petitioner is also incarcerated for more than 1 ½ years. It was also confirmed by the learned Government Advocate (Crl.side).

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

7. A perusal of the records revealed that even according to the case of the



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prosecution, both the petitioners are brothers. Both were standing outside the house of the defacto complainant and guarding the gate. They had no previous antecedents. Now, the second petitioner died and as such, all the charges are abated as against him. Further, they have been implicated as accused only on the confession statement of A1 to A3. Except the confession statement of A1 to A3, there is no other material to connect the petitioners for the alleged offences. However, already the first petitioner had undergone imprisonment for a period of more than 1 ½ years.

8. In view of the above, this Court is not inclined to interfere with the conviction ordered by the Trial Court and Appellate Court. However, this Court is inclined to modify the sentence alone. Therefore, while confirming the conviction imposed as against the first petitioner for the offence under Section 395 of IPC, the sentence imposed on him in SC.No.69 of 2008 dated 29.06.2018 by the Principal Assistant Sessions Judge, Erode, alone is reduced to the period of incarceration, which were already undergone by the first petitioner. Insofar as the second petitioner is concerned, the second petitioner died on 12.01.2024. Therefore, all the charges are abated as against the second petitioner.

9. Accordingly, insofar as the first petitioner is concerned, this Criminal



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Revision case stands partly allowed and insofar as the second petitioner is

concerned this Criminal Revision case is dismissed as abated.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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G.K.ILANTHIRAIYAN, J

mn

To

1. The First Additional District and Sessions Judge,
Erode.
2. The Principal Assistant Sessions Judge,
Erode.
3. The Inspector of Police,
Erode North Police Station,
4. The Public Prosecutor,
High Court, Madras.

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