



Crl.A.No.636/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 13.08.2025

CORAM

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

Crl.A.No.636 of 2023

1. Salaparai Mani alias Mani
2. Sekar @ Gnanasundaram

.....

Appellants

Vs.

The State Rep. by,
The Inspector of Police,
Yercaud Police Station,
Salem District.

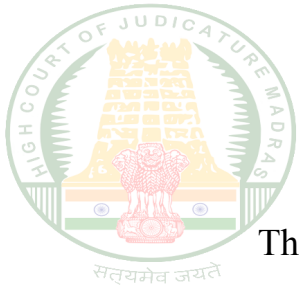
Respondent

Prayer: Criminal Appeal is filed under Section 378 of Cr.P.C. to set aside the judgment of convicting the appellant passed in S.C.No.30/2017 dated 25.04.2023 by the learned I Additional Assistant Sessions Judge, Salem and consequently thereby allowing this criminal appeal.

For Appellant : Mr.R.Sankarasubbu

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

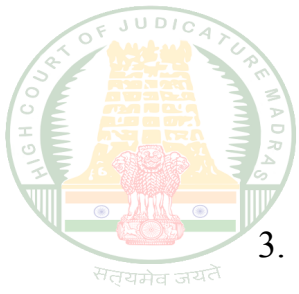
JUDGMENT



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This appeal has been preferred as against the order dated 25.04.2023 passed by the learned I Additional Assistant Sessions Judge, Salem S.C.No.30/2017 dated 25.04.2023, thereby convicting the appellants for the offence punishable under Section 451, 395 r/w. 397 IPC.

2. The case of the prosecution is that on 16.03.2016 at about 5.00 p.m. the accused conjoined and hatched criminal conspiracy at Thailamarakkadu to commit dacoity at the house of the *de facto* complainant. At about 8.30 p.m. On the same day when the wife of the *de facto* complainant opened the back door of their house for feeding their dog, the first accused forcibly trespassed into the house and caught hold her hand. Thereafter, accused 2 and 4 followed the first accused with an intention to commit robbery and the accused 3 and 5 stood outside of the door watching the movements of the general public. Thereafter, all the accused committed dacoity of jewels weighing 21 sovereigns worth about Rs.2,10,000/- and cash of Rs.35,000/- from the *de facto* complainant and his wife at knife point. While committing robbery they were also armed with knife and iron rod. Immediately after committed dacoity, the accused flew away from the scene of crime. Though one of the witness attempted to catch them, the first accused beat him with his hand and flew away from the scene of crime.



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3. On the complaint the respondent registered FIR in Cr.No.53 of 2016 for the offences punishable under Section 120(b), 450, 395 r/w.397 IPC. After completion of investigation, final report was filed and the same has been taken cognizance by the trial Court in PRC No.60/2016. The prosecution had examined P.W.1 to P.W.15 and marked Exs.P1 to P27. The prosecution has also produced material objects M.O.1 to M.O.25. On the side of the accused no one was examined and no documents were marked. On perusal of the oral and documentary evidence, the trial court convicted the appellants for the offence punishable under Sections 451 IPC, Section 395 r/w.397 IPC and sentenced them to undergo four years imprisonment for the offence punishable under Section 451 IPC, and 10 years rigorous imprisonment for the offence punishable under Section 395 r/w. 397 IPC. Aggrieved by the same the present appeal has been preferred.

4. The learned counsel for the appellant submitted that though the trial Court concluded that, in the absence of any specific finding regarding the involvement of five or more persons in the commission of the robbery, the offence would amount only to robbery and not dacoity. Therefore, the trial Court concluded that though the appellants were charged for the offences punishable under Section 392 r/w.397 of IPC for dacoity, they were convicted

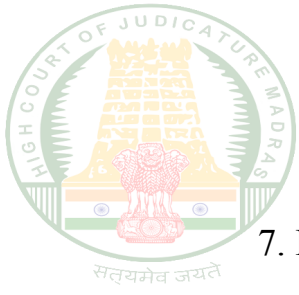


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for the offences punishable under Section 395 r/w. 397 IPC. The trial Court concluded that no charges were proved for dacoity and convicted for the offence under Section 395 IPC instead of Section 392 IPC. Therefore he prayed for modification of conviction under Section 392 IPC r/w. 397 IPC instead of conviction under Section 395 r/w.397 IPC

5. On perusal of the records it reveals that the trial Court concluded that the prosecution failed to prove the offence of dacoity and convicted the appellants for the offence of robbery. However, the trial Court sentenced the appellant for the offence punishable under Section 395 IPC r/w. 397 IPC, instead of Section 392 r/w. 397 IPC. So far the appellants are incarcerated for nearly 2 years.

6. Considering the above facts and circumstances, this court modifies the order of conviction imposed by the trial Court in SC No.30/2017 to the effect that only the conviction under Section 395 r/w. 397 IPC is altered to Section 392 r/w. 397 IPC and the appellants are sentenced to undergo four years rigorous imprisonment. However, the conviction and sentence imposed under Section 451 IPC by the trial Court is hereby confirmed.



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7. In the result, the Criminal Appeal is partly allowed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
bkn

To:

1. The Inspector of Police,
Yercaud Police Station,
Salem District.

2. The I Additional Assistant Sessions Judge, Salem.

3. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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