



Crl.R.C.No.193 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 16.06.2025

CORAM:

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

Crl.R.C.No.193 of 2023

C.Kutta @ Suresh

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Virinjipuram Police Station,
Vellore District.
(Crime No.29 of 2015)

... Respondent

PRAYER: Criminal Revision has been filed under Section 397 r/w 401 of Cr.P.C., praying to call for the entire records in pursuant to the criminal appeal in C.A.No.17 of 2019 vide order dated 18.07.2022 on the file of the Principal District and Sessions Judge, Vellore, Vellore District, partly modifying the judgment of conviction in S.C.No.62 of 2015 on the file of the learned Chief Judicial Magistrate, Vellore, Vellore District vide order dated 05.02.2019 and set aside the same.

For Petitioner : Mr.N.Vijayaraj

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



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ORDER

This Criminal Revision has been preferred against the judgment dated 18.07.2022, passed by the learned Principal District and Sessions Judge, Vellore District, in C.A.No.17 of 2019, confirming the conviction and sentence imposed on the petitioner dated 05.02.2019 passed by the learned Chief Judicial Magistrate, Vellore District, in S.C.No.62 of 2015, for the offences punishable under Sections 342 & 397 (2 counts) of IPC.

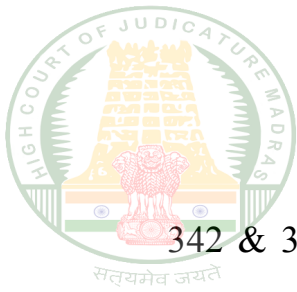
2. The case of the prosecution is that on 12.01.2014 at about 8.40 p.m., at Vakukkumedu to Elavampadi road, near Anpoondi Aerodrome ground, while the witness P.W.2 viz., Durairaj was proceeding in his two wheeler, he received a phone call and therefore, he stopped his two wheeler and was talking in his phone. At that time, the accused came there with intention to rob him. They wrongfully confined him at knife point and robbed his cell phone and ATM card. They also caused hurt on his left finger and left face. When P.W.2 shouted for help, the accused threatened him with dire consequence. The third accused viz., the petitioner herein caused hurt by stabbing him with penknife. At that juncture, another victim P.W.1 came to the scene of occurrence in four wheeler and he was also wrongly confined by the accused



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persons and they robbed him as well. On the complaint, the respondent registered the FIR in Crime No.29 of 2014 for the offences punishable under Sections 341, 294(b) & 397 of IPC. After completion of investigation, the respondent filed final report and the same has been taken cognizance by the trial Court in S.C.No.62 of 2015 for the offences punishable under Sections 294(b), 342, 397 (2 counts) r/w 34 of IPC.

3. On the side of the prosecution, they examined P.W.1 to P.W.17 and marked documents in Ex.P.1 to Ex.P.17. The prosecution had also produced material objects in M.O.1 to M.O.11. On the side of the accused, no one was examined and no documents were marked before the trial Court. On perusal of the oral and documentary evidences, the trial Court found all the accused guilty for the offences punishable under Sections 342 , 294(b), 397 r/w. 34 of IPC, and sentenced them to undergo six months simple imprisonment for the offence punishable under Section 294(b) & 342 of IPC, and also sentenced to undergo seven years rigorous imprisonment for the offence punishable under Section 397 (2 counts) r/w 34 of IPC. Aggrieved by the same, the accused preferred an appeal and the appellate Court acquitted the accused for the offence punishable under Section 294(b) of IPC and confirmed the conviction and sentence imposed on them for the offences under Sections



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342 & 397(2 counts) of IPC. Hence, the petitioner filed the present revision

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4. The learned counsel appearing for the petitioner submitted that both the victims were examined as P.W.1 and P.W.2. However, they did not support the case of the prosecution as against the petitioner. There is absolutely no specific overt act as against the petitioner. Even according to the case of the prosecution, the alleged occurrence was taken place on 12.01.2014. The petitioner had surrendered before the trial Court on 10.10.2014. However, he was shown arrest only on 04.11.2014 and thereafter he was taken for police custody and his confessions statement was recorded on 04.11.2014. On the strength of the confession statement, the respondent had recovered M.O.1.

4.1. He further submitted that even according to the case of the prosecution, the second accused alone stabbed P.W.1 & P.W.2. There was absolutely no overt act as against the petitioner. Since the petitioner was involved in previous cases that are of similar nature, the present case has also been put up as against the petitioner. Further no one has supported the case of the prosecution as against the petitioner. Without considering the same, the trial Court as well as the appellate Court convicted the petitioner. Hence, he prayed to allow this revision.



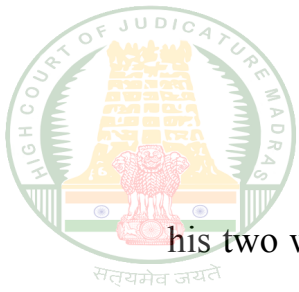
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5. The learned Government Advocate (CrI. Side) appearing for the respondent police submitted that the petitioner is arrayed as A3. Both the victims were examined as P.W.1 & P.W.2. They categorically deposed the specific overt act as against the petitioner. The petitioner had drove the vehicle and committed the robbery on the victims. P.W.6, the Village Administrative Officer deposed that in her presence, the confession statement of the petitioner was recorded and the recovery was also made and the same was produced as M.O.1. The doctor, who treated P.W.1 & P.W.2, was examined as P.W.12 and he categorically deposed about the injuries sustained by P.W.1 & P.W.2. The prosecution clearly proved the case and the trial Court rightly convicted the petitioner and the same was confirmed by the appellate Court. Therefore, it doesn't warrant any interference by this Court.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

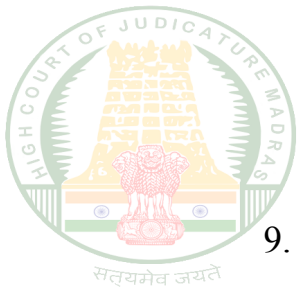
7. There are totally three accused persons in which, the petitioner is arrayed as third accused. The specific case of the prosecution is that on 12.01.2014, when the victim who was examined as P.W.2 was proceeding in



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his two wheeler, the accused confined him and robbed his cell phone and cash of Rs.450/- at knife point. They also caused injury on the left ring finger and left face. At that juncture, P.W.1 came in the same direction and came to rescue P.W.2. The accused persons robbed him also at knife point and caused injury on his neck.

8. On perusal of the deposition of P.W.1, it is revealed that on 12.01.2014 at about 8.40 pm., when he was proceeding in his four wheeler viz., Tata Super AC bearing registration No.TN 23 BE 1212, near Anpoondi Aerodrome ground, he stopped his vehicle for attending natural calls. After stopping his vehicle, the accused asked for route to reach Golden temple. While he was explaining the way to the temple, the first accused threatened him at knife point and also removed his dress. He stabbed on the right side of buttocks. Further the second accused came there and stabbed his cheek and his backside with knife. Thereafter, the third accused came there. All the accused robbed his cell phone and a sum of Rs.450/- and take away his car. They also boarded in the vehicle and forced P.W.1 to drive the vehicle.



9. On perusal of the deposition of P.W.2, it is revealed that when he

was proceeding in his two wheeler, he received phone call and stopped his vehicle to attend the call. At that time, the accused came there and asked for route to the golden temple. When he was explaining the route, the second accused at knife point robbed him. The third accused also came there and committed the robbery. The first accused also attacked him with knife. At that juncture, P.W.1 came there and he was stopped by the accused persons. Thereafter, the accused persons stabbed P.W.1 and committed robbery on him as well.

10. Therefore, there are complete contradictions between P.W.1 and P.W.2 insofar as the overt act of the petitioner. According to the case of the prosecution, when P.W.2 was proceeding in his two wheeler, he stopped the vehicle to attend the phone call. At that juncture, the accused came there and committed the robbery on P.W.2. At that time P.W.1 came there and he was also robbed at knife point. Both the victims were stabbed by the accused.

11. Further the petitioner was not arrested immediately after the occurrence. He himself surrendered before the Court on 10.10.2014 and on his surrender he was remanded to judicial custody. However, after the period of 23



days, the petitioner was taken to police custody and his confession statement was recorded in the presence of P.W.6 on 04.11.2014. On the strength of the confession statement, M.O.1 was recovered. Though, M.O.1 was recovered from the petitioner, there was no specific overt act as against the petitioner as he only stabbed P.W.1 & P.W.2.

12. Admittedly, the petitioner was involved in six previous cases in which, two cases ended in acquittal and in one case he was convicted against which, the present revision. The other three cases are pending trial. Therefore, the petitioner has been subsequently added as third accused in this case by foisting false case that too, in order to detain him under the goowdas Act. There is absolutely no connection between the petitioner and other accused viz., A1 & A2.

13. Further the occurrence was taken place on 12.01.2014 at about 8.40 pm. However, the complaint was lodged only on the next day ie., on 13.01.2014. P.W.1 deposed that he was robbed by three unknown persons. Whereas P.W.2 deposed that he had known about one person. P.W.2 also reported to the doctor who treated him that one known person attacked him. Further, P.W.1 and P.W.2 deposed that the accused used two knives to stab



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them. However, the prosecution had only recovered one knife that too after the period of 11 months from the date of occurrence. Therefore, the prosecution miserably failed to prove its case.

14. In view of the above discussions, the conviction and sentence imposed on the petitioner cannot be sustained and is liable to be set aside. Accordingly, the judgment dated 18.07.2022 passed by the learned Principal District and Sessions Judge, Vellore District, in C.A.No.17 of 2019, and the order dated 05.02.2019 passed by the learned Chief Judicial Magistrate, Vellore District, in S.C.No.62 of 2015, are hereby set aside. The petitioner/third accused is acquitted of all charges in S.C.No.62 of 2015 on the file of the learned Chief Judicial Magistrate, Vellore District. Fine amount, if any paid, shall be refunded to the petitioner forthwith. Bail bonds, if any executed, shall stand cancelled.

15. In the result, this Criminal Revision Case stands allowed.

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Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J,

rts

To

1.The Principal District and Sessions Judge,
Vellore, Vellore District.

2.The Chief Judicial Magistrate,
Vellore, Vellore District

3.The Inspector of Police,
Virinjipuram Police Station,
Vellore District.

4. The Public Prosecutor,
Madras High Court,
Chennai.

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