



WEB COPY

CRL RC No. 1810 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-12-2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 1810 of 2023

1.Dhanam
W/o.Thangavel

2. Sumathi
D/o Thangavel

3. Kannupaiyan
S/o.Angusamy, 75 C,
Crine Bazar,
Attur Town, Salem District

Petitioner(s)

Vs

The State Represented by
The Inspector of Police
Attur Police station,
Salem District,
Crime.No.55/2014.

Respondent(s)

PRAYER

This Criminal Revision Case is filed under Section 397 and 401 of Cr.P.C., seeking to to set aside the Judgment of the learned 1st Additional District Judge, Salem in CrI.A.59/2020 passed on 14.06.2023 against the Judgment of the Learned Judicial Magistrate No.2, Salem in CC.No.386/2014 dated 19.08.2020.

For Petitioner(s): Mr S.Muthukrishnan

For Respondent(s): Mr.C.E.Pratap,
Government Advocate (Crl. Side)

**ORDER**

The Revision challenges the conviction and sentence imposed on the petitioners for the following offences:

<i>Accused</i>	<i>Offence under Section</i>	<i>Sentence imposed</i>
A1	381 r/w 34 of IPC	To undergo simple imprisonment for three years and to pay a fine of Rs.100/-, in default to undergo simple imprisonment for three months
A2	457 of IPC	To undergo simple imprisonment for one year and to pay a fine of Rs.100/-, in default to undergo simple imprisonment for three months.
	380 of IPC	To undergo simple imprisonment for three years and to pay a fine of Rs.100/-, in default to undergo simple imprisonment for three months.
The sentences were ordered to run concurrently for A2.		

The conviction and sentence imposed by the trial Court was confirmed by the appellate Court. Challenging the above conviction and sentence imposed by the trial Court and confirmed by the appellate Court, the accused have filed the instant Revision.

2.The case of the prosecution is that the husband of the first petitioner herein, one Thangavel (A1) was working as a night watchman at the Fast Track



Court, Attur; that the defacto complainant on 25.01.2014 at about 2.00 p.m. noticed that the door of the property room of the Court was open; that on suspicion he entered the room and found several case properties, which were expensive wooden planks, worth about Rs.15,000/- were missing and he had lodged an FIR in Crime No.55 of 2014 under Section 457, 381, 380 IPC r/w 34 IPC.

3.The respondents on conclusion of the investigation had filed a final report before the Judicial Magistrate No.2, Salem as against 4 accused. Before the trial Court, the prosecution had examined 8 witnesses and marked Exts.P1 to P13, besides marking MO1 to MO6.

4.The trial Court after considering the evidence had acquitted the third and fourth accused and convicted the first and the second accused for the offences alleged. The appellate Court confirmed the Judgment of conviction and sentence. Pending appeal, the first accused Thangavel died and the petitioners 1 and 2 herein were permitted to continue the appeal under Section 394(2) of Cr.P.C. Hence, they have preferred the above Revision challenging the Judgment of the appellate Court along with the other convicted accused Kannupaiyan (A2).



5.It is now represented that Kannupaiyan is no more. The learned Government Advocate (Crl. Side) confirms the said fact. Hence, the Revision filed by the said Kannupaiyan /third petitioner is dismissed as abated.

6.The learned counsel for the petitioners would submit that in the complaint made by the Head Clerk, he had stated that he suspected the involvement of two sanitary workers; that the first petitioner's husband viz., Thangavel is not involved in the alleged offence; that the only evidence relied upon by the Courts below is that certain recoveries were made from the third petitioner herein and the said Thangavel was acquainted with the third petitioner and therefore, that is insufficient to hold him guilty of the aforesaid offences and that the Judgments of the Courts below are liable to be set aside.

7.The learned Government Advocate (Crl. Side), per contra, submitted that the first petitioner's husband was working as a night watchman; that he was aware that the properties were available in the property room; that recoveries of the stolen properties were made from the house of his close friend, the third petitioner herein and therefore, the trial Court as well as the appellate Court concluded that the petitioner was also involved in the offence and hence, submitted that the Judgments of the Courts below did not warrant interference.

8.Considered the rival submissions and perused all the relevant records.



9.As stated above, the prosecution had examined 8 witnesses. PW1 is the complainant. PW2 speaks about the information given by PW1 about the theft committed in the property room. PW2 was also working in the Court as a typist. PW3 is the Village Administrative Officer, had attested the confession of the said Thangavel and the third petitioner and also speaks about recovery of cash of Rs.500/- from the said Thangavel and a portion of the stolen properties from the third petitioner herein. PW4 had assisted PW3 and also witnessed the confession and recovery along with PW3. PW5 and PW6 are the observation mahazar witnesses and have signed in Ext.P9 observation mahazar. PW7 is the Sub Inspector of Police, who registered an FIR on the complaint given by PW1. PW8 is the Inspector of Police who had conducted the investigation and filed a final report.

10.The complainant admittedly was not aware as to who committed theft of the wooden planks. He had lodged the complaint suspecting the involvement of certain sanitary workers, who came to clean the Court building. During the course of investigation, it appears certain properties were recovered from the house of the third petitioner herein and a sum of Rs.500/- was recovered from the said Thangavel. The basis for convicting the said Thangavel was that he was acquainted with the third petitioner herein from whom the wooden planks were recovered. The trial Court had relied upon the statements made in the cross-



examination of PW2. Admittedly, there is no other evidence to implicate the said Thangavel. This Court is of the view that from the recovery of Rs.500/- from the possession of the said Thangavel, no adverse inference can be drawn. The fact that the said Thangavel was known to the third petitioner herein would not make him liable for the offence of theft alleged by the prosecution.

11. Therefore, this Court is of the view that the Judgments of the Courts below convicting the first petitioner's husband for the aforesaid offences cannot be sustained and are liable to be set aside. Accordingly, they are set aside. It is needless to say that the stigma attached to the conviction of the said Thangavel shall stand removed pursuant to this Judgment.

12. With the above observations, the Revision is allowed.

11-12-2025

Tsg
Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No



To

1.The Inspector Of Police
Attur Police station,
Salem District,
Crime.No.55/2014.

2.The Judicial Magistrate No.2,
Salem.

3.I Additional District Judge,
Salem.

4.The Public Prosecutor,
Madras High Court.

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SUNDER MOHAN J.
Tsg

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