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Crl.R.C.No.1722 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1722 of 2022 and
Crl.M.P.No.20187 of 2022

Mani @ Krishnamoorthy

... Petitioner

Vs.

State Rep by
The Inspector of Police,
M-4, Thudiyalur Police Station,
Coimbatore.
(Crime No.156/2015).

... Respondent

PRAYER: Criminal Revision Case is filed under Sections 397 and 401 of Code of Criminal Procedure, to set aside the judgment dated 21.12.2021 in Crl.A.No.59 of 2019 on the file of the III Additional District and Sessions Judge, Coimbatore, confirming the conviction and sentence in the judgment dated 09.01.2019 made in S.C.No.70 of 2018, on the file of the Chief Judicial Magistrate Court, Coimbatore.

For Petitioner : Mr.D.Akash Kumar for
Mr.W.Camyles Gandhi

For Respondent : Mr.S.Udayakumar,
Government Advocate (Crl. Side) assisted by
Ms.Harshana.T



Crl.R.C.No.1722 of 2022

ORDER

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This Criminal Revision Case is filed by the petitioner/A2 to set aside the judgment dated 21.12.2021 in Crl.A.No.59 of 2019 passed by the learned III Additional District and Sessions Judge, Coimbatore (lower appellate Court), confirming the conviction and sentence in the judgment dated 09.01.2019 in S.C.No.70 of 2018 passed by the learned Chief Judicial Magistrate, Coimbatore (trial Court).

2.Conviction and Sentence of the trial Court as well as lower appellate Court are tabulated as follows:

	<i>Rank of the Accused</i>	<i>Conviction and Sentence</i>
<i>Trial Court</i>	A1 to A4	For offence under Section 394 r/w 397 IPC, A1 to A4 were convicted and sentenced to undergo Rigorous Imprisonment for seven years each and to pay a fine of Rs.500/- each, in default to undergo Simple Imprisonment for three months each.
<i>Lower Appellate Court</i>	A1	Crl.A.No.91 of 2019 was dismissed confirming the conviction and sentence.
	A2	Crl.A.No.59 of 2019 was dismissed confirming the conviction and sentence.
	A3 & A4	Crl.A.No.32 of 2019 were allowed setting aside the conviction and sentence of the trial Court.



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3. Case of the prosecution is that on 31.03.2015 at 01.30 hours in Koundampalayam at Nataraj Nagar 3rd Street, when the defacto complainant/PW1 was making ready her two school going daughters, the main door was slightly opened, at that time, two persons (A1 and A2/petitioner) entered the house and the petitioner/A2 brandished a knife, pushed PW1's two daughters inside the bathroom and latched the door from outside. A1 threatened PW1 keeping the knife on her neck and snatched 18 sovereign of gold Thali and 4 sovereign of gold chain (MO1 & MO2). Not stopping with that, A1 took PW1 near bureau and forced PW1 to open the same, at that time, PW1 pushed A1, ran out and shouted "Thief". Sensing fear, A1 and the petitioner/A2 ran out from PW1's house and escaped from the scene with the help of A3 & A4 standing ready with two motorbikes. Immediately, PW1 informed to her husband/PW2, by the time PW3 & PW4, who came to meet PW2, was also informed about the incident by PW1. PW2 came to the house, took his wife/PW1 to a Doctor for treatment, thereafter, to the Police Station and lodged a complaint (Ex.P1).



Crl.R.C.No.1722 of 2022

4.PW7, Sub Inspector of Police received the complaint (Ex.P1), registered FIR (Ex.P10) in Crime No.156 of 2015 for offence under Section 394 r/w 397 IPC and informed PW8, Inspector of Police, Periyanaikanpalayam who was in-charge of the respondent Police Station on that day. On receipt of information, PW8 reached Thudiyalur Police Station, visited the scene of occurrence at 20.30 hours, in presence of PW5 and another witness prepared Observation Mahazar and Rough Sketch (Exs.P11 & P12), enquired PW2, PW3, PW4 & PW5 and recorded their statements. On the next day (01.04.2015), regular Inspector of Police/PW9 attached to the respondent Police Station took charge, took up investigation, again enquired the witnesses, recorded their statements, collected the Identify Card (MO3) of A1 handed over by PW1 and sent to Court through Form-95 (Ex.P13). On the same day, when PW9 conducting road check near Thudiyalur-Vellakinaru check post saw four persons in two motorbikes bearing Reg.Nos.TN-38-DX-1714 and TN-66-9228. When they were stopped, they attempted to escape. PW9 caught hold them and enquired, they admitted their involvement in the above case and two other cases. In presence of PW6, confession statement of A1 (Ex.P14) recorded and 18 sovereign of gold Thali and 4 sovereign of gold chain (MO1 & MO2) recovered and seized through Seizure Mahazar (Ex.P6). The confession statements of A2 to A4 (Exs.P7 to P9) recorded. On conclusion of



investigation, charge sheet filed before the trial Court. During trial, on the side of the prosecution, PW1 to PW9 examined, Exs.P1 to P14 marked and MO1 to MO3 produced. On the side of the defence, one Gnanasekaran examined as DW1 but no document marked. The trial Court, on the evidence and materials, convicted all the accused A1 to A4. Challenging the same, A1 and A2 filed Crl.A.Nos.91 & 59 of 2019 before the lower appellate Court and A3 & A4 filed Crl.A.No.32 of 2019. The lower appellate Court by common judgment dated 21.12.2021 allowed the appeals of A3 & A4 setting aside their conviction and sentence, but dismissed the appeals of A1 & A2 confirming their conviction and sentence. Aggrieved against the same, the petitioner/A2 filed the present revision but no revision filed by A1.

5.Learned counsel for the petitioner/A2 submitted that petitioner/A2 falsely implicated in this case since he happens to be a friend of other accused. It is projected that petitioner and A1 entered PW1's house, threatened her, committed robbery and caused grievous hurt. The specific overtact attributed against the petitioner is that he brandished knife and pushed PW1's two daughters inside the bathroom and latched the door from outside. But in this case, though the two children of PW1 were listed as witnesses LW3 & LW4 , but not examined during trial.



6.Learned counsel further submitted that in this case, admittedly, no knife seized based on the confession statements (Exs.P7 to P8 & P14) of A1 to A4, the petitioner never gone to PW1's house and threatened PW1's daughters or committed robbery of MO1 & MO2. In this case, the only eye witness to the occurrence is PW1. PW1 admits that on the date of occurrence (31.03.2015) between 10.00 p.m., and 11.00 p.m., she and her husband/PW2 were called by the Police and they went to the Police Station and identified the petitioner and A1 are persons who committed robbery and caused grievous hurt. Even in the complaint (Ex.P1), no physical features of the persons committed robbery given except stating that one person was short and another person was tall. PW2, who had gone with PW1 to the Police Station, states that he identified MO1 & MO2 and not seen any of the accused in the Police Station. PW3 & PW4, are known to PW2, came to the scene of occurrence after the incident and they were informed about the incident by PW1. The evidence of PW1 & PW2 are contradictory to each other and the evidence of PW1 becomes doubtful, added to it, no Test Identification Parade conducted in this case, hence, the identification of the petitioner becomes doubtful.



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7.He further submitted that PW1 admits that her husband/PW2 came home, enquired and she informed about the incident, thereafter, she sent her two children to school, thereafter went to the hospital for treatment and finally to the Police Station, she dictated the complaint (Ex.P1) which was written by one Manoj, and lodged the complaint (Ex.P1) to PW7. In this case, the said Manoj neither cited nor examined as witness. Further, in this case, there was no recovery from the petitioner based on his confession statement (Ex.P7). It is projected that after initial investigation by PW8, he handed over the investigation to PW9 who conducted road check on 01.04.2015, at that time, four persons coming in two motorbikes, on seeing the Police attempted to flee. PW9 caught, enquired them and arrested them in this case. Admittedly, MO1 & MO2 seized from A1 based on his confession statement (Ex.P14) and from the petitioner and other accused, though confession statements recorded (Exs.P7 to P9), there was no recovery.

8.He further submitted that PW6, the witness for arrest and recovery, admit that all confession statements (Exs.P14, P7, P8 & P9) are computer typed and he signed the same in the Police Station. PW5, the witness for Observation Mahazar and Rough Sketch (Exs.P11 & P12) admits he signed the



same in the Police Station. In this case, A3 examined one Gnanasekaran as DW1 who deposed that on 30.03.2015, A3 was forcibly taken in an Indigo car by four persons, A4 was present in the car, thereafter, DW1 was asked to come to the Police Station where he saw another two persons namely A1 & A2 brought there. Thus, the accused illegally detained in the Police Station from 30.03.2015, falsely implicated in this case. Further, A1 borrowed loan from one Sagadevan doing financial business with PW2. There was default in loan repayment by A1, dispute arose between A1 and Sagadevan. Fearing A1 would lodge complaint, to support Sagadevan, PW2 using his wife/PW2 gave false complaint against A1. Since the petitioner and other accused are known to A1, they are falsely implicated in this case.

9.He further submitted that neither the identification of the petitioner proved nor there was any recovery from the petitioner based on his confession (Ex.P7). In this case, all documents and properties reached the Court belatedly which would prove arrest and recovery doubtful. The trial Court failing to consider the improper identification of the petitioner and contradictions in the prosecution evidence and materials but relying heavily on the Identity Card (MO3) of A1, which is said to be found in the scene of occurrence, came to conclusion all four accused involved and committed the offence and the lower



appellate Court disbelieved the evidence as regards A3 & A4 acquitted them but confirmed the conviction of the petitioner/A2 and A1. In view of the serious latches and infirmities in the prosecution case, the conviction of the petitioner to be set aside and the revision to be allowed.

10.Learned Government Advocate (Crl. Side) submitted that defacto complainant/PW1 is the victim and wife of PW2. On 31.03.2015, PW1 was making ready her two school going daughters at 01.30 p.m., at that time, A1 and petitioner/A2 entered the house of PW1 brandishing knife, A1 kept the knife on PW1's neck, snatched MO1 & MO2. The petitioner/A2 pushed PW1's two daughters inside the bathroom and bolted the door from outside. A1 took PW1 near a bureau and forced her to open the same to rob other gold jewels and valuables. PW1 shown the bureau, escaped from A1, ran out through side door and shouted "Thief". Sensing fear of getting caught, both A1 and petitioner/A2 ran out from PW1's house, escaped with the help of A3 & A4 who were standing ready in two motorbikes. While A1 was running out, his identity card (MO3) fell down. PW1 informed her husband/PW2 about the incident. By the time, PW3 & PW4, known to PW2, came for borrowing loan and they saw the injured/PW1 weeping informed robbing of her 22 sovereigns of gold jewels (MO1 & MO2). PW2 took PW1 to the hospital for treatment,



thereafter, they went to Police Station and lodged the complaint (Ex.P1) to PW7 who received the complaint, registered FIR (Ex.P10) and informed PW8.

PW8, Inspector of Police, Periyanaickenpalayam Police Station was in-charge of the respondent Police Station since the regular Inspector was on leave. PW8 took up investigation, visited scene of occurrence at about 08.30 p.m., prepared Observation Mahazar, Rough Sketch (Exs.P11 & P12) in presence of PW5, enquired PW2, PW3, PW4 & PW5, recorded their statements. On the next day (01.04.2015), PW8 handed over the investigation to regular Inspector PW9 who took up investigation, again enquired witnesses and recorded their statements, collected the Identity card (MO3) of A1 found in the scene. On the same day, when PW9 conducted road check near Thudiyalur-Vellakinaru check post, at that time, four persons came in two motorbikes, on seeing the Police, they attempted to escape. PW9 caught them and enquired, they gave contradictory statements. On further enquiry, four persons admitted their involvement in this case and two other cases. PW9 arrested them in presence of PW6, confessions statements (Exs.P14, P7, P8 & P9) recorded. A1 in his confession statement (Ex.P14) disclosed committing robbery of MO1 & MO2 and produced them, seized through seizure mahazar (Ex.P6), thereafter, seized articles sent to the Court through Form-95 (Ex.P13). The accused produced before the Magistrate for remand. On conclusion of investigation, charge sheet



Crl.R.C.No.1722 of 2022

filed before the trial Court. During trial, PW1 to PW9 examined and Exs.P1 to P14 marked and MO1 to MO3 produced. All the witnesses supported the case of the prosecution. The trial Court on the evidence and materials convicted all the accused but the lower appellate Court finding that there is no material against A3 & A4 acquitted them but confirmed the conviction and sentence of A1 and petitioner/A2. In this case, A1 not filed revision, he was released on 22.09.2023 after undergoing his period of sentence. Hence, prays for dismissal of the revision of the petitioner/A2.

11.This Court considered the rival submissions and perused the materials available on record.

12.In this case, PW1/defacto complainant is the victim and wife of PW2. PW1 admits that the complaint (Ex.P1) was dictated by her and written by one Manoj, but the said Manoj not examined as witness. According to the complaint (Ex.P1), it was A1 who put a knife on her neck, snatched MO1 & MO2. The other person is the petitioner/A2 who pushed PW1's two daughters into the bathroom and locked the door from outside. Thereafter, it was A1 who forcibly took PW1 near the bureau to rob the other gold jewels and valuables. Admittedly, two persons who entered PW1's house are not known persons,



both are total strangers to PW1. PW1 admits that within 10 to 15 minutes of being informed, her husband/PW2 came home and she narrated the incident.

PW1 further admits that on the next day on 01.04.2015, the respondent Police called PW1 & PW2 to the Police Station, PW1 admits she identified the accused A1 & A2 in the Police Station. PW2 her husband who accompanied PW1 identifies MO1 & MO2, categorically states not seen any of the accused in this case. Admittedly, in this case, no Test Identification Parade conducted by the respondent Police to confirm the identity of the accused. Except for PW1, no one had seen or identified the petitioner/A2.

13.In this case, the occurrence took place at 01.30 p.m., PW1's husband/PW2 reached within 10 to 15 minutes on getting information. Though it is projected PW1 was injured and taken to the hospital, resulting delay in lodging the complaint, admittedly neither the Doctor who treated PW1 examined nor any contemporary medical records produced.

14.PW9, Investigating Officer admits that two children of PW1 and PW2 listed as LW3 & LW4, but not examined as witnesses during trial. The specific overtact attributed against the petitioner/A2 is primarily on LW3 and LW4 who were threatened and pushed into the bathroom. That being so, these



two children (LW3 & LW4) will be the right persons to identify and speak about the overtact of petitioner. For what reason, LW3 & LW4 not examined, no explanation given by PW9. Thus, non examination of LW3 & LW4 is fatal to the prosecution case. Likewise the case projected is that both A1 and petitioner/A2 threatened PW1 and her two daughters showing knife, but no knife seized as material object based on the confession statements (Exs.P14, P7, P8 & P9). Admittedly, MO1 & MO2 seized from A1. The identity card Ex.P3 and MO3 is that of A1.

15.PW2 husband of PW1 confirmed that when he and his wife called by the Police, they had gone to the Police Station and he identified MO1 & MO2 but not seen any of the accused in this case. PW2 treated hostile. In his cross examination, PW2 admits his signature (Ex.P2) in Form-95 (Ex.P13), to confirm seizure of identity card of A1 (MO3). In this case, PW1's evidence is that she had gone to the Police Station along with her husband/PW2 at 08.00 p.m. On the contrary, the evidence of PW2 is that he had gone to the Police Station along with his wife/PW1 between 10.00 p.m., and 11.00 p.m. The evidence of PW1 & PW2 are contradictory on the material aspects. PW6's evidence is that the accused arrested, confession statements recorded between 06.00 p.m., and 07.00 p.m. When and how accused brought to the Police



Station, there is no evidence. The material documents namely the complaint (Ex.P1), FIR (Ex.P10), confession statements (Exs.P14, P7, P8 & P9), Material Objects (MO1 to MO3), Form-95 (Ex.P13) all reached the Court belatedly and no reason given for the delay. Hence, there is serious doubt in the manner the prosecution projected the case. Admittedly, based on the confession statement (Ex.P7) of the petitioner, there is no recovery. The entire case properties recovered from A1 based on his confession statement (Ex.P14). The trial Court and lower appellate Court primarily relied on the photo identity card (Ex.P3)/MO3 of A1 and considered the evidence and materials only with regard to A1, nothing about the petitioner and other accused.

16.Thus, it is clear that the identification of the petitioner not proved in the manner known to law, no recovery from the petitioner and there are latches in the prosecution case. In view of the above, this Court holds that the prosecution miserably failed to prove the case beyond all reasonable doubt against the petitioner. Giving the benefit of doubt, this Court is inclined to set aside the judgments of the Courts below.

17.In the result, this Criminal Revision Case stands allowed. The judgment dated 09.01.2019 in S.C.No.70 of 2018 passed by the learned Chief



Crl.R.C.No.1722 of 2022

Judicial Magistrate, Coimbatore (trial Court) and the judgment dated 21.12.2021 in Crl.A.No.59 of 2019 passed by the learned III Additional District and Sessions Judge, Coimbatore (lower appellate Court) are set aside. The petitioner/A2 is acquitted from all charges. Bail bond if any executed shall stand cancelled. Fine amount if any paid shall be refunded. Consequently, connected Criminal Miscellaneous Petition is closed.

10.12.2025

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 Chief Judicial Magistrate,
Coimbatore.
- 3.The Inspector of Police,
M-4, Thudiyalur Police Station,
Coimbatore.
- 4.The Public Prosecutor,
Madras High Court.



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Crl.R.C.No.1722 of 2022

M.NIRMAL KUMAR, J.

vv2

Crl.R.C.No.1722 of 2022

10.12.2025