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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	:	24.04.2025
Pronounced on	:	28.04.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD). Nos.508 and 671 of 2024

and

Crl.M.P.(MD).No.6883 of 2024 in

Crl.R.C.(MD).No.671 of 2024

Crl.R.C(MD).No.508 of 2024:

Meenakshi

(Now confined in Special Prison for Women,

Trichy)

... Petitioner/Appellant/ Accused No.1

Vs.

State rep.by Sub Inspector of Police,

Kumbakonam West Police Station,

Thanjavur District.

(Cr.No.999 of 2022)

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records and set aside the conviction and sentence passed by virtue of Judgment in C.C.No.55 of 2023 dated 31.05.2023 by the learned Judicial Magistrate No.1, Kumbakonam and confirmed by the Principal District and Sessions Judge, Thanjavur in Criminal Appeal No.199 of 2023 vide Judgment dated 12.12.2023.



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For Petitioner : Mr.S.Sekar
for Mr.P.Manimaran

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate(Crl.Side)

Crl.R.C(MD).No.671 of 2024:

Reka ... Petitioner/Appellant/ Accused No.2
Vs.

The State Represented by
The Sub Inspector of Police,
West Police Station,
Kumbakonam,
Crime No.999 of 2022

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 (1) r/w 401 of Cr.P.C., to call for the records and set aside the Judgment dated 112.12.2023 passed in Crl.A.No.199 of 2023 on the file of the learned Principal Sessions Judge, Thanjavur, confirming the conviction and sentence imposed upon the Petitioner in C.C.No.55 of 2023 on the file of the learned Judicial Magistrate No.I, Kumbakonam, Thanjavur District.

For Petitioner : Mr.R.Ilayaraja

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate(Crl.Side)



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COMMON ORDER

Since these criminal revision cases are arising out of the same crime, these cases are taken up for hearing together and disposed of by way of this common order.

2. Accused Nos.1 and 2 in C.C.No. 55 of 2023 on the file of the learned Judicial Magistrate No.I, Kumbakonam, Thanjavur District have filed this criminal revision challenging the conviction and sentence passed against them. Which was also confirmed in CrI.A.No. 199 of 2023 by the learned Principal Sessions Judge, Thanjavur and the details are as follows :-

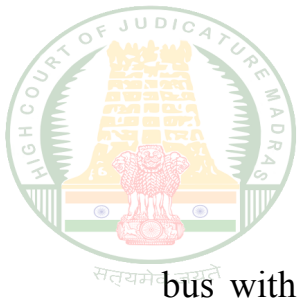
SL. No.	CrI. RC. (MD). No.	Rank of the accused and Name	C.C. No.	CrI.A. No.	Charges proved under sections	Punishment (Imprisonment and Fine)
1	508/2024	A-1 Meenakshi	55 /2023	199 /2023	U/s.379 IPC	Two years rigorous imprisonment and fine of Rs.10,000/- in default to undergo further simple imprisonment for one month.
2	671/2024	A-2 Reka			U/s.379 r/w 109 of IPC	Rigorous imprisonment for one year and fine of Rs.10,000/- in default to undergo further simple imprisonment for one month.



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3. Case of the prosecution:-

On 18.12.2022 at about 10.30 a.m., PW1 came to Kumbakonam from Nachiyarkovil to purchase jewels. At Kumbakonam bus stand, when PW1 and his relative alighted from the bus, few ladies also got down from the bus after hitting them and before they could realise the same, they found that Rs.30,000/- was missing. Immediately she lodged the complaint under Ex.P1 to the respondent police. PW5 on receipt of the complaint registered the case on the same day in Crime No. 997 of 2022 under section 379 of I.P.C. against unknown person. After registration of FIR under Ex.P7, PW5 went to the occurrence place and prepared observation mahazar, Ex.P8 and rough sketch Ex.P9 in the presence of PW2 and PW3 at 08.40 p.m., on 17.12.2022. On 18.12.2022 PW5 and other officers were keeping tab on the movement of the suspects relating to the above occurrence in the Kumbakonam New bus stand and at that time they found strange movement of the petitioners and they disclosed fictitious residential address and thereafter the admitted that had come from Andhra Pradesh. Subsequently, they gave confession and the same was recorded and thereafter they were arrested and remanded to judicial custody. Subsequently in their confession they disclosed their further involvement in similar thefts in the



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bus with the same *modus operandi* that A1 stole the gold articles and money from the passengers and she would transfer to A2 and A2 would pass on to A3 and then they would divide the proceeds. They also admitted their involvement in the case on the file of Kumbakonam police station in similar occurrence in Crime Nos. 997 of 2022 and 999 of 2022. In the evening they were asked to come to the police station and in the police station, A1 and A2 admitted that they committed theft of amount and the amount of Rs.20,300/- was recovered in the presence of PW5. The remand report also shows the said crime numbers.

4. The Learned Judicial Magistrate granted police custody and during their custody A1 gave confession. On the basis of the confession, the involvement of A2 and A3 were found out. The admitted portion of the confession was Ex.P.10. Further, recovery of Rs.30,000/- was effected in the residence of A1's relative situated at Chinna Salem under the recovery mahazar Ex.P.11. The said recovery was made by PW6 in the presence of PW4 and PW8. The recovery mahazars was marked as Ex.P13 and Ex.P14. Thereafter, the recovered money was identified by PW1 and investigation was completed by the investigating officer PW6 and he filed the final report on 16.02.2023. The Learned Judicial Magistrate No. I, Kumbakonam took it on file in C.C.No. 57 of 2023 under section 379 of I.P.C.



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against A1 and 379 r/w. 109 of I.P.C. against A2 and A3. Thereafter summoned the accused and served the copies under section 207 of Cr.P.C. to them and framed the necessary charges and questioned them and they pleaded not guilty and they stood for trial.

5. The prosecution to prove the case examined PW1 to PW7 and marked Ex.P1 to P14. The learned Trial Judge questioned the accused under section 313 of Cr.P.C. by putting the incriminating material available against them in the prosecution evidence and documents. They denied as false. On the side of the accused, neither witness was examined nor documents were marked.

6. The learned Trial judge after considering the evidence and documents and the answer given by the accused during the 313 questioning convicted the accused under section 379 of I.P.C. The learned Trial Judge accepted the case of the prosecution that the accused are habitual offenders and had previous cases and having been convicted for similar occurrence in C.C.No. 55 of 2023 imposed the maximum punishment of three years rigorous imprisonment and fine of Rs.10,000/- with default sentence of two months simple imprisonment. Challenging the same, accused No.1 filed the appeal No. 43 of 2024 and accused

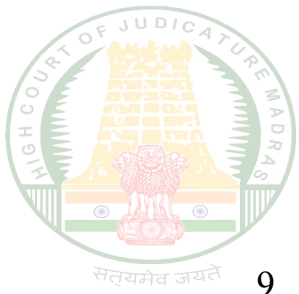


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Nos. 2 and 3 filed in CrI.A.No. 241 of 2023 on the file of the principal sessions Judge, Thanjavur. The appellate court also confirmed the same and aggrieved over the same, the accused filed the above revisions.

7. The learned counsel for A2 and A3 submitted that except the confession of A1, no other material is available to implicate them. Further, the charge against them is 379 r/w 109 of I.P.C. Even as per the prosecution case, recovery was made only from A1 and on the basis of confession of A1 they were falsely implicated. Therefore, he seeks for acquittal.

8. The learned counsel for A1 submitted that one of the recovery witnesses turned hostile and hence, recovery was not proved. Even the other recovery witness has not deposed that money was recovered in his presence. He admitted his presence only in the relative's house of A1 and hence, his evidence no way helps the prosecution to prove the recovery. Having failed to prove the recovery no other incriminating material is available against her and hence he seeks for acquittal.



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9. The Learned Additional Public Prosecutor vehemently submitted that the petitioners have number of previous cases and they have followed innovative method of committing theft in the buses with active participation using the following *modus operandi*:

A1 would commit theft of properties from the passengers and she would transfer the same to A2 and A2 would further pass on to A3 and A3 would leave the place and pose as if they were no way connected with each other. After the occurrence, they would meet together and divide the proceeds of the theft. In the said circumstances PW5 clearly deposed about their strange company in the bus stand and they were jointly seen active in the bus stand. They were jointly arrested and they made confession about the *modus operandi*. Hence the prosecution clearly proved the case. The recovery was made and the same was identified by PW1. Even though one of the recovery witnesses partly turned hostile, but he affirmatively deposed about the disclosure statement of A1 and he and the officers went to the house of relative of A1 and recovery was made. Other recovery witnesses clearly deposed about the recovery made on the basis of the confession of A1. Therefore, both courts below convicted the accused and considering the number of previous cases and the earlier conviction for similar offence, imposed the maximum punishment of three years rigorous



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imprisonment. Hence, there is no circumstance to interfere with. He further humbly prayed that they are habitual offenders committing similar type of theft in the public transport vehicle targeting marginal people, gullible poor people who are travelling in the bus and they are seriously affected due to their unending theft in the bus and various places and hence he seeks for the confirmation of the maximum sentence imposed by the both the courts in the interest of the society.

10. This court considered rival submissions and perused the records and the impugned judgment.

11. Now the question in these revisions is whether the conviction and the maximum sentence imposed against the petitioners under section 379 of I.P.C. And 379 r/w.109 of I.P.C. is legally correct.

12. The *modus operendi* followed by the accused as explained by the learned additional public prosecutor shocks the judicial conscience of this court. The accused all teamed up together and they boarded the bus. One of them looted the article of the passengers in clandestine manner and transfer the same



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to the other accused and other accused further passed on to another accused and each accused alighted separately and created a scene as if they were no way connected with each other. After the occurrence, they have divided the proceeds of the theft. In this type of *modus operandi*, the burden of the prosecution is to prove their strange and weird company in the bus stand in suspicious manner. In this case PW5 clearly deposed about their queer company in the bus stand on 18.12.2022. They were enquired by PW5 and the accused made contradictory statement regarding their residence. Finally, they disclosed about their nativity as Andhra Pradesh. This is the material circumstance to legitimately infer their involvement in the occurrence. A1 gave categorical disclosure statement about the involvement of A2 and A3. The said disclosure statement was legally proved. The same is admissible as held by the Hon'ble Supreme Court in the case of ***Mehboob Ali v. State of Rajasthan***, reported in **2016 14 SCC 640**:

13. For application of Section 27 of the Evidence Act, admissible portion of confessional statement has to be found as to a fact which were the immediate cause of the discovery, only that would be part of legal evidence and not the rest. In a statement if something new is discovered or recovered from the accused which was not in the knowledge of the police before disclosure statement of the accused is recorded, is admissible in the evidence.



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15. It is apparent that on the basis of the information furnished by accused Mehboob Ali and Firoz and other accused, Anju Ali was arrested. The fact that Anju Ali was dealing with forged currency notes was not to the knowledge of the police. The statement of both the accused has led to discovery of fact and arrest of co-accused not known to police. They identified him and ultimately statements have led to unearthing the racket of use of fake currency notes. Thus the information furnished by the aforesaid accused persons vide information memos is clearly admissible which has led to the identification and arrest of accused Anju Ali and as already stated from possession of Anju Ali fake currency notes had been recovered. As per information furnished by accused Mehboob and Firoz vide memos Exts. P-41 and P-42, the fact has been discovered by police as to the involvement of accused Anju Ali which was not to the knowledge of the police. Police was not aware of accused Anju Ali as well as the fact that he was dealing with fake currency notes which were recovered from him. Thus the statement of the aforesaid accused Mehboob and Firoz is clearly saved by Section 27 of the Evidence Act. The embargo put by Section 27 of the Evidence Act was clearly lifted in the instant case. The statement of the accused persons has led to the discovery of fact proving complicity of the other accused persons and the entire chain of circumstances clearly makes out that the accused acted in conspiracy as found by the trial court as well as the High Court.



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Therefore, both the courts below had correctly accepted the said disclosure statement, which is proved through the cogent and trustworthy evidence. Hence, this Court has no reason to set aside the said concurrent finding.

13. The involvement of A2 and A3 is proved on the basis of the disclosure statement of A1 coupled with their strange company in the bus stand during the previous day occurrence of the theft of PW1's articles has happened. Their false disclosure about the address of their residence also is another incriminating circumstance.

14. PW5 clearly deposed about the involvement of all the accused and his evidence is cogent and trust worthy. There is no suggestion that he had motive against the accused to falsely implicate them in the above case.

15. Even though one of the recovery witnesses partly turned hostile, but his evidence relating to the disclosure statement and arrival to A1's relative's house along with A1 is corroborated by the evidence of the another recovery witness and the officer PW6 also clearly deposed about the disclosure statement. In these type of cases even if one of the recovery witnesses partly turned hostile,



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there is no legal impediment to believe the evidence of PW6 and the same has been fortified by the Hon'ble Supreme Court in the case of Attat Singh vs. State of Maharashtra reported in 2013 (11) SCC 719 and the Hon'ble Supreme Court has held that if some portion of the statement of hostile witness inspires confidence, it can be relied upon and also if the evidence of said hostile witness is corroborated by other evidence there is no legal bar to convict the accused.

16. A forceful submission was made about the one day delay of FIR in reaching the magistrate court. The said delay is not material when the FIR itself was registered against unknown person and also there was no cross examination relating to the delay and also no prejudice was established as required under the principle laid down by the Hon'ble Supreme Court in the case of **Jafel Biswas vs, State of West Bengal** reported in **2019 (12) SCC 560**. The Hon'ble Supreme Court has held that mere delay in sending report itself cannot lead to the conclusion that trial is vitiated or the accused is entitled to be acquitted on the ground that FIR has been registered much later in time than shown. Also it is held that the accused has to prove prejudice was caused to him due to the delayed despatch of FIR.



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17. The accused have not explained their odd company in the bus stand and the recovery made during their 313 of Cr.P.C. questioning. Enough evidence is available to show that the accused are partners in crime.

18. Therefore in all the aspects the prosecution has proved the case beyond reasonable doubt and the same has been properly considered by the both the courts below and there is no circumstance to interfere with the concurrent finding. In the said circumstance, the conviction passed by both the courts below under section 379 of I.P.C against A1 and 379 r/w. 109 of I.P.C against A2 and A3 is legally correct and this court is inclined to confirm the same.

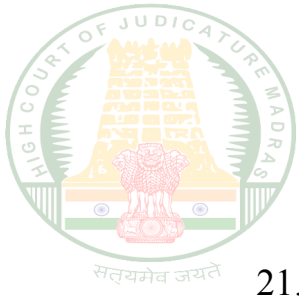
19. So far as the sentence of imprisonment of maximum period of imprisonment is concerned, the learned trial judge has taken into account the previous conviction in C.C.No. 55 of 2023 for the similar offence and also the following previous cases in various police stations.



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<i>Accused</i>	<i>Section</i>	<i>CrimeNo.</i>	<i>Police Station</i>
A-1. Mrs.Meenatchi W/o. Balaji	U/Sec.379 IPC	82/2015	Malayampalayam Police Station, Erode.
	U/Sec.379 IPC	999/2022	West Police Station, Kumbakonam
	U/Sec.379 IPC	997/2022	West Police Station, Kumbakonam
	U/Sec.379 IPC	1197/2021	West Police Station, Thanjavur
	U/Sec.379 IPC	186/2017	Thottiyam Police Station, Trichy
	U/Sec.379 IPC	498/2017	Fort Police Station, Trichy
A-2. Mrs. Reka W/o. Siranjeevi	U/Sec.379IPC	154/2005	Ammayanaickanur Police Station, Dindigul
	U/Sec.379IPC	999/2022	West Police Station, Kumbakonam
	U/Sec.379IPC	997/2022	West Police Station, Kumbakonam
	U/Sec.379IPC	865/2021	Fort Police Station, Trichy
	U/Sec.379IPC	864/2021	Fort Police Station, Trichy
	U/Sec.379IPC	863/2021	Fort Police Station, Trichy
	U/Sec.379IPC	862/2021	Fort Police Station, Trichy
	U/Sec.420 IPC @380 IPC	742/2021	Fort Police Station, Trichy

20. In view of the above circumstances, this court finds no reason to interfere with the sentence of imprisonment also. In the result, this court finds no merit in the submission of the learned counsel for the petitioners and all the revisions deserve to be rejected.



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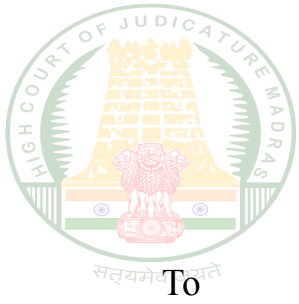
21. Accordingly, all revisions are dismissed. The bail bond executed by the petitioner is cancelled and the respondent police is directed to secure the petitioner and confine them in prison to undergo the remaining part of sentence imposed in C.C.No. 57 of 2023 on the file of the Judicial Magistrate No.I, Kumbakonam by order dated 09.10.2023. The connected Criminal Miscellaneous Petition is Closed.

22. Post the matter for reporting compliance on 23.06.2025.

28.04.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes/No

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1. The Principal District and Sessions Judge,
Thanjavur.
2. The Judicial Magistrate No.I,
Kumbakonam, Thanjavur District.
3. The Sub Inspector of Police,
West Police Station,
Kumbakonam, Thanjavur District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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Pre-delivery common order made in
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and
CrI.M.P.(MD).No.6883 of 2024 in
CrI.R.C.(MD).No.671 of 2024

28.04.2025