

Crl.A.(MD)No.870 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.08.2025

CORAM :

THE HONOURABLE **Dr. JUSTICE R.N.MANJULA**

Crl.A.(MD)No.870 of 2025
and Crl.M.P(MD).No.10834 of 2025

Selvam

... Appellant/Sole Accused

versus

The State of Tamil Nadu
rep., by its The Inspector of Police,
Theni Police Station, Theni District.
Crime No.462 of 2017

... Respondent/Complainant

Prayer : Criminal Appeal filed under Section 415(2) of BNSS, to call for the records relating to the judgment in S.C.No.130 of 2017 dated 03.11.2022 on the file of the Chief Judicial Magistrate Court, Theni, set aside the same and allow this appeal.

For Appellant : Mr.C.Susikumar

For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)



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JUDGMENT

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This criminal appeal has been preferred as against the judgment of the conviction and sentence, dated 03.11.2022 made in S.C.No.130 of 2017 by the learned Chief Judicial Magistrate Court, Theni.

2. The appellant is the sole accused, who has been found guilty for the offences under Sections 392 r/w 397 and 506(ii) IPC, convicted and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for a further period of one month for the offence under Section 392 r/w 397 IPC; to undergo rigorous imprisonment for two years for the offence under Section 506(ii) IPC.

3. The case of the prosecution is that on 25.05.2017, at about 11.00 am., when the defacto complainant, P.W.1, was talking with P.W.2 in front of Theni Banglamedu Kallar Society, the accused approached P.W.1, threatened him with a knife and forcibly snatched Rs.450/- from P.W.1's shirt pocket. P.W.1, P.W.2 and members of the public attempted to apprehend the accused, but the accused threatened them by brandishing the knife and escaped from the spot. On the complaint given by the defacto



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complainant, a case has been registered. After the completion of investigation, charge sheet has been filed against the accused for the offences under Sections 397 and 506(ii) IPC. Since the offence is triable by the Sessions Court, the case was committed to the Sessions Court. The learned trial Judge had taken cognizance in S.C.No.130 of 2017 and after completing the legal mandate of furnishing copies and all other legal formalities, the learned trial Judge framed charges against the appellant for the offences under Sections 397 and 506(ii) IPC. When the accused was questioned, he denied the same and claimed to be tried.

4. During trial, on the side of the prosecution, P.W.1 to P.W.8 were examined and Exs.P1 to ExP6 were marked. Besides, M.O.1 and M.O.2 were marked. On the side of the defence, no oral and documentary evidence was let in.

5. After the conclusion of trial, based on the oral and documentary evidence, the learned trial Judge has convinced and sentenced the appellant as stated supra. Aggrieved over the same, this appeal has been preferred.

6. The learned counsel appearing for the appellant submitted that the appellant is none other than the brother-in-law of the defacto complainant.



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Except P.W.1, defacto complainant, all other witnesses have turned hostile.

In the cross-examination of P.W.1, he has stated that he signed a blank white paper and handed over to the police. In his evidence, he has stated that on the date of occurrence, on the request made by the mother of the appellant, he had gone to the hospital to meet the appellant. There were number of CCTV cameras available near the place of occurrence, but the prosecution has failed to collect any of it, in order to show that the accused had committed the offence. The evidence of P.W.1 itself is self contradictory and his evidence has not been supported by any other evidence of independent witnesses.

7. Mr.A.Albert James, learned Government Advocate (Crl.side), who takes notice on behalf of the respondent, submitted that P.W.1 has consistently stated that the accused used a dangerous weapon in order to extort money from him. The cross-examination of P.W.1 has not demolished the chief examination. As the evidence of P.W.1 is credible, it did not require any further corroboration. The weapon used for the occurrence has also been identified by P.W.1 and it tallies with his evidence.



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8. Heard both sides and perused the materials available on record.

9. The defacto complainant, who was examined as P.W.1, has stated in his evidence that he is the sister's husband of the accused. However, in the complaint, it has been stated that he had not seen the accused prior to the incident. When P.W.1 was confronted on this aspect during cross-examination, he offered an explanation for having made such a statement in the complaint. In fact, at one stretch of his cross-examination, he stated that he himself had written the complaint, whereas, at another stretch of his cross-examination, he claimed to have given oral complaint to the police and affixed his signature in a blank white paper. As the defacto complainant is the sister's husband of the accused, he need not have stated that the accused is the stranger. In fact, on the instructions of the mother of the accused, P.W.1 himself went and visited the accused in the hospital. In certain cases, it is difficult to believe that the accused, who is the brother-in-law of the defacto complainant, had shown knife and extorted Rs.450/- from the defacto complainant.

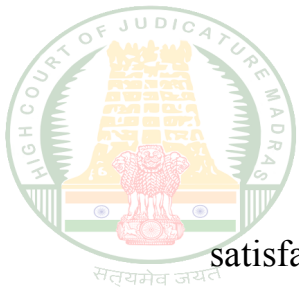
10. The above evidence of P.W.1 itself is self contradictory and it is difficult to rely on the evidence of P.W.1 to convict the accused, but the learned trial Judge had ignored even the very relationship between the



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accused and the defacto complainant and the purpose of his visit to find the accused guilty. The learned trial judge has not even considered the evidence of P.W.1, where he has stated that he simply affixed his signature in a white paper and handed it over to the police. Even if there might be some reason for the trial Court to disbelieve the evidence of P.W.1, in view of the materials contradictions in his evidence, it would have been safer to look for some corroborative evidence from other witnesses. But all other witnesses, who are said to have witnessed the occurrence, have turned hostile and they did not support the case of the prosecution. It is a fit case, where the trial Court ought to have given the benefit of doubt to the accused and granted a straight away acquittal. But, for the reason best known, the trial Judge had believed the version of P.W.1 ignoring the material contradictions and relationship between the defacto complainant and the accused. It is learnt from the submission of the learned Government Advocate (Crl.side) that the accused is the habitual offender and there are other cases pending against him and he is also a history sheeter. Even if that may be true, it cannot be a ground for the trial Judge to be influenced to convict the accused without properly appreciating the evidence in the present case.

11. So far as the evidence available in the case on hand, neither the occurrence nor the involvement of the accused have been proved



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satisfactorily beyond any reasonable doubt. Hence, in view of the above stated reason, the judgment of the trial Court is liable to be set aside.

12. In result,

(i) This Criminal Appeal is allowed.

(ii) The judgment of conviction and sentence made in S.C.No.130 of 2017, dated 03.11.2022, passed by the learned Chief Judicial Magistrate, Theni, is set aside.

(iii) The appellant is hereby acquitted of all charges levelled against him.

(iv) The fine amount, if any already paid, shall be refunded to the appellant.

Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
NCC : Yes/No

Rmk



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To

- 1.The Chief Judicial Magistrate, Theni.
- 2.The Inspector of Police,
Theni Police Station, Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 4.VR Section.
Madurai Bench of Madras High Court,
Madurai.



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R.N.MANJULA, J.,

Rmk

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