



WEB COPY

Crl.R.C.No.1675 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL RC No.1675 of 2023

1. Dhamu @ Praveen
S/o.Kalidass,
South Housing Unit,
Muthusamy Colony,
Selvapuram,
Coimbatore.
2. Vijaya Anand
S/o.Kumar,
30, Backside of VKC. Gowdown,
Ration shop veedu,
Selvapuram,
Coimbatore.

..Petitioners/Accused

Vs

The State Rep. By
Inspector of Police,
D1, Ramanathapuram Police Station,



Crl.R.C.No.1675 of 2023

Coimbatore District.

Cr.No.201/2016.

...Respondent

Prayer: Criminal Revision filed under Section 397 r/w 401 of Cr.P.C., to set aside the conviction imposed in the Judgment dated 04.08.2023 made in CA.No.537 of 2018 on the file of the learned IV Additional District and Sessions Judge at Coimbatore confirming the Judgment dated 19.11.2018 made in CC.No.387 of 2016 on the file of the learned Judicial Magistrate No.VI, Coimbatore.

For Petitioners:

Mr.K.Selvakumaraswamy
for A1

Mr.K.Raghunath
for Mr.P.Bakiyaraj
for A2

For Respondent:

MR.P.Vinoth Raja
Government Advocate (Crl.Side)

ORDER

The revision challenges the Judgment dated 04.08.2023 passed in Criminal Appeal No.537 of 2018 by the learned IV Additional District and Sessions Judge, Coimbatore, confirming the conviction and sentence



imposed on the petitioners for the offence under Section 392 r/w 34 of the Indian Penal Code, 1860 (hereinafter referred to as the “*IPC*”), by Judgment dated 19.11.2018 in C.C No.387 of 2016 by the learned Judicial Magistrate No.VI, Coimbatore. The first petitioner was sentenced to undergo three years of rigorous imprisonment and to pay a fine of Rs.1,000/- in default, to undergo 30 days of rigorous imprisonment for the aforesaid offence. The second petitioner was sentenced to undergo three years of rigorous imprisonment and to pay a fine of Rs.1,000/- in default, to undergo 30 days of rigorous imprisonment for the aforesaid offence.

2. The case of the prosecution is that on 18.03.2016, at about 5.30 a.m., when the *de-facto* complainant, P.W.1, had opened her petty shop, two persons had come near the shop and asked for cigarettes; that when she tried to take the cigarettes, the petitioners/accused snatched 1 ½ sovereign gold chain worn by the *de-facto* complainant on her neck and fled from the place and thus committed the aforesaid offence.



Crl.R.C.No.1675 of 2023

3. On a complaint given by P.W.1, *de-facto* complainant, a case was registered in Crime No.201 of 2016 for the offence under Section 392 of the IPC by P.W.6, Inspector of Police. P.W.7, Inspector of Police, took up the investigation and filed the Final Report for the offence under Section 392 r/w 34 of the IPC.

4. Before the trial Court, the prosecution had examined seven witnesses as P.W.1 to P.W.7 and marked 9 exhibits as Exs.P1 to P9 and the gold jewel as M.O.1. The accused neither examined any witness nor marked any document on his side.

5. The Trial Court found the accused/petitioners guilty of the offence under Section 392 r/w 34 of the IPC and sentenced them as stated above, which was confirmed by the appellate Court.

6. The learned counsel for the petitioners would submit that no identification parade was conducted during investigation; that P.W.1 had stated in her complaint that unknown persons had committed the offence of



Crl.R.C.No.1675 of 2023

robbery; that her identification for the first time in Court cannot be believed; that the recovery of the gold jewel cannot be believed since the witness who was examined to prove the recovery would admit that she stayed outside the house when the jewel was brought from the house of the first petitioner; and hence, prayed for setting aside the impugned Judgment and for acquittal.

7. Mr.R.Vinoth Raja, the learned Government Advocate (Crl. Side), for the respondent, *per contra*, submitted that the prosecution has proved the recovery beyond reasonable doubt; that the evidence of the investigating officer proves the said fact; and that, in any case, the jewel was recovered from the house of the first petitioner, and there is no reason to falsely implicate the petitioners; that the first-time identification in Court cannot be disbelieved merely because no identification parade has been conducted; and that, considering all the above facts and since the scope of revision is limited, the revision may be dismissed.



WEB COPY

8. As stated above, the prosecution had examined seven witnesses. P.W.1 is the victim. P.W.2 had stated that he saw two persons flee on a bike after snatching the gold chain. P.W.3 is a hearsay witness. P.W.4 is the Observation Mahazar witness, and he had also heard the shout of the victim at the time of the alleged occurrence. P.W.5 is the witness to the confession and the seizure mahazar. P.W.6 is the Inspector of Police, who registered the FIR. P.W.7 is the Investigating Officer who conducted the investigation and filed Final Report.

9. It is seen that the prosecution had established that two persons were involved in the occurrence. Both the petitioners were identified by P.W.1. Though no test identification was conducted by the prosecution, it is seen that P.W.1 had identified both the petitioners in her deposition. Both the Courts below had believed P.W.1 as regards identification. It is well settled that the witnesses cannot be disbelieved only because a test identification parade was not conducted, and it would depend on the facts and circumstances of each case. On facts, since both the Courts have believed



Crl.R.C.No.1675 of 2023

P.W.1 and the said view cannot be said to be perverse, this Court is not inclined to set aside the finding of the trial Court in that regard. Further, though P.W.5 would state that she stayed outside the house, there is no reason to doubt the seizure of the jewel from the house of the first petitioner by the investigating officer, P.W.7. Considering the aforesaid facts, this Court is of the view that the prosecution had established its case beyond reasonable doubt and there is no infirmity in the finding of guilt by the Courts below.

10. However, it is seen that the petitioners have no bad antecedents admittedly. The petitioners were aged 22 years and 19 years at the time of occurrence. It is now reported that both of them are gainfully employed in private companies and they were not involved in any other offence after the alleged occurrence.

11. Considering all the aforesaid facts, this Court is of the view that the ends of justice would be met if the sentence is reduced in the facts and circumstances of the case. Hence, the petitioners are sentenced to one year



Crl.R.C.No.1675 of 2023

of rigorous imprisonment and to pay Rs.1000 each, in default, to suffer 30 days of simple imprisonment.

12. Accordingly, while holding that the finding of guilt is justified, this Court modifies the sentence imposed on the petitioners in the following manner:

(i) The conviction of the petitioners for the offence under Section 392 r/w 34 of the IPC, by the Courts below, is confirmed.

(ii) However, the sentence imposed on the petitioners, i.e., rigorous imprisonment for three years and to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for thirty days, is modified, and each of the petitioners is sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1,000/- in default, to undergo simple imprisonment for 30 days.

(iii) The fine amount already paid, if any, shall be adjusted against the fine amount imposed now.

(iv) The period of sentence already undergone by the petitioners shall be set off under Section 428 Cr.P.C.



Crl.R.C.No.1675 of 2023

13. In the result, the Criminal Revision Petition stands partly-allowed.

03-02-2026

Speaking/Non-speaking order

Neutral Citation: Yes/No

dk

To

1. The IV Additional District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate No.VI,
Coimbatore.
3. The Inspector of Police,
D1, Ramanathapuram Police Station,
Coimbatore District.
4. The Public Prosecutor
High Court of Madras
Chennai – 600 103.



WEB COPY



Crl.R.C.No.1675 of 2023

SUNDER MOHAN, J.
dk

CRL RC No. 1675 of 2023

03-02-2026