



WEB COPY

CRL RC No. 1726 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 1726 of 2023

Santhoshkumar,
S/o. Kathirvel,
No.1/A, Kuppusamy Naidu Colony,
Apathanpauram, Vadalur, Cuddalore.

..Petitioner(s)

Vs

The State,
Rep. By Station House officer,
Cuddalore OT Police station,
Cuddalore District.
Cr.No. 17/2019.

..Respondent(s)

PRAYER – This Criminal Revision is filed under Sections 397 and 401 of Cr.P.C. to call for the records of the judgement dated 11.09.2023 made in CA.No.3 of 2023 passed by the learned I Additional District and Sessions Judge, Cuddalore in confirming the judgement of Trial Court dated 29.12.2022 in CC.No. 766 of 2019 passed by the learned Judicial Magistrate No.II, Cuddalore.

For Petitioner(s): Mr. M.R. Jothimanian

For Respondent(s): Mr.Vinothraja,
Government Advocate (Crl. Side)

ORDER

The revision challenges the judgment of the learned I Additional District and Sessions Judge, Cuddalore made in C.A.No.3 of 2023, confirming the



judgment passed in C.C. No.766 of 2019 by the learned Judicial Magistrate No.II, Cuddalore, convicting the petitioner for the offence under Section 394 of I.P.C. and sentencing him to undergo simple imprisonment for a period of 3 years and also to pay a sum of Rs.2,000/-, failing which to undergo simple imprisonment for a period of one month.

2.It is the case of the prosecution that the petitioner along with A2 went to the house of P.W.1, the defacto complainant and enquired whether the house was available for rent; that P.W.1 told that there was no house available for rent; that the petitioner along with A2 asked for drinking water; and that P.W.1 came back with water, the petitioner along with A2 covered the mouth of P.W.1 with cloth, blind folded her and snatched two sovereigns of gold chain, and that P.W.1 also sustained injuries. A complaint was given by P.W.1 on the same day and FIR was registered by the Sub-Inspector of Police and after conducting investigation, the Inspector of Police had filed the final report for the offences under Sections 394 and 341 of I.P.C. The prosecution examined 10 witnesses and marked 13 documents. The Trial Court found the petitioner guilty of the offences and sentenced him as stated above. The Appellate Court confirmed the findings of the Court and sentenced imprisonment on the petitioner.

3.Learned counsel for the petitioner would submit that the petitioner has been falsely implicated since he was the friend of A2; that no recovery was



made from the petitioner; that the petitioner was aged about 19 years at the time of occurrence; that the petitioner admittedly was stranger to P.W.1; that no test identification parade was conducted by the prosecution and the first time identification in the Court two years after the occurrence cannot be believed since admittedly the victim saw the petitioner at the Police Station immediately after the occurrence and therefore, prayed for setting aside the impugned judgment.

4.Learned Government Advocate (Crl. Side) per contra submitted that P.W.1 had sustained injury and the gold chain weighing 2 ½ sovereigns stolen from her was recovered from A3; that merely because the victim had identified the petitioner in the Court for the first time after two years, it cannot be said that the victim has to be disbelieved and it would depend on the facts and circumstances of the case. He would further submit that the evidence of the victim in this case inspires confidence and there is no reason to interfere with the concurrent findings of the fact by the Courts below and prayed for dismissal of the Revision.

5.As stated above, the prosecution had examined 10 witnesses. P.W.1 is the victim who had lodged the complaint at 9.00 p.m. on 13.01.2019. The alleged occurrence said to have taken place on 13.01.2019. P.W.2 and P.W.3 are the witnesses who were examined by the prosecution to prove that the



alleged occurrence took place as stated by the complainant. They both are hear-say witnesses. They had taken the victim to the hospital. P.W.4 and P.W.5 are the witnesses to the observation magazar; P.W.6 and P.W.7 are the witnesses who signed in the confession statement of the petitioner and turned hostile; P.W.8 is the Doctor who treated the victim and made entries in the accident register. P.W.9 is the Sub-Inspector who registered the FIR; and P.W.10 is the Investigation Officer.

6.From the above narration, it is clear that the prosecution case rests on the evidence of P.W.1 to prove the involvement of the petitioner. Admittedly, no recovery was made from the petitioner and the robbed jewel was recovered from A3. It is seen from P.W.1's narration in the complaint that two persons who were middle aged around 30 years had come to her house and committed the offence. The petitioner was admittedly aged 19 years at the time of occurrence. The other two accused were aged 30 years at the time of occurrence. That apart, it is seen from P.W.1's evidence that she had seen all the accused including the petitioner at the Police Station after they were arrested on 15.01.2019. No test identification parade was conducted though admittedly the petitioner was a stranger to the de-facto complainant. The petitioner were identified in the Court for the first time two years after the alleged occurrence. As stated above, the description given by P.W.1 about the accused and their age did not match with that of the petitioner. No recovery was made from the



petitioner. In the light of the above facts, the first time identification at Court assumes significance and it would have no value since the witness had seen the petitioner at the Police Station. Therefore, considering all the above facts, this Court is of the view that the impugned judgment dated 11.09.2023 made in CA.No.3 of 2023 cannot be sustained and the conviction of the petitioner held in C.C. No.766 of 2019 has to be therefore set aside.

7.Accordingly, this Criminal Revision is allowed.

19-02-2026

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

GSA

To

- 1.The Station House officer,
State of Tamil Nadu,
Cuddalore OT Police station,
Cuddalore District.
- 2.The I Additional District and Sessions Judge,
Cuddalore.
- 3.The Judicial Magistrate No.II,
Cuddalore.



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SUNDER MOHAN, J.

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