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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL RC No.1677 of 2025

and

Crl.M.P.Nos.17075 and 17076 of 2025

1. Gopi @ Gopinath
S/o. Sundarraaj,
No.10/3, Kumaramthusamy Street,
Ammampettai,
Salem - 3.
2. Mani @ Manikandan,
S/o.Subramani,
Periya Kinaru Street,
Ammampettai,
Salem,
Now at
Thirunagar Colony.
Moolapattarai,
Karungalpalayam,
Erode.
3. Gokul @ Gokula Krishnan,
S/o. Murugesan,
Periya Kinaru Street,



Ammampettai,
Salem,
Now at
Thirunagar Colony.
Moolapattarai,
Karungalpalayam,
Erode.

...Petitioners/
Appellants/Accused

Vs

The State rep by
The Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.
Crime No.52/2012.

...Respondent/Respondent/
Complainant

Prayer : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS to call for the records pertaining to the Judgment in Crl.A.No.63/2024 dated 16.07.2025 passed by the learned Additional District and Sessions Judge, Hosur confirming the conviction and sentence passed by the learned Asst. Sessions Judge, Hosur in S.C.No.21/2018 dated 30.10.2023, set aside the same.

For Petitioners : Mr.A.Balamurugan

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



ORDER

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This Criminal Revision challenges the Judgment passed by the learned Additional District and Sessions Judge, Hosur, in Crl.A.No.63 of 2024, dated 16.07.2025, confirming the finding of guilt and enhancing the sentence imposed by the Trial Court in S.C.No.21 of 2018, dated 30.10.2023. The petitioners/A1 to A3 were charged for the offences under Sections 341, 392 r/w 397, and 506(ii) of the Indian Penal Code, 1860 (hereinafter referred to as the “*IPC*”).

2. The allegation against the petitioners/appellants/A1 to A3 is that they waylaid the victims/P.W.1 and P.W.2 and, under threat of causing injury by a knife, robbed a cellphone and a watch from the informant and a cellphone and a watch from another witness and thus committed the aforesaid offences.

3. The Trial Court, after examining the witnesses produced on the side of the prosecution, namely P.W.1 to P.W.6, and considering the documents Exs.P1 to P22, found the petitioners/A1 to A3 guilty of the offences under Sections 341, 392, and 506(ii) of the IPC and sentenced them to undergo RI for 1 year and to pay a fine of Rs.1000/- (id) 1 month SI for the offence under Section 341 of the IPC, to undergo RI for 3 years and to pay a fine of Rs.1000/-



(id) 1 month SI for the offence under Section 392 of the IPC, and to undergo RI for one year and to pay a fine of Rs.1000/- (id) 1 month SI for the offence under Section 506(ii) of the IPC. All the sentences were ordered to run concurrently.

4. The petitioners/appellants/A1 to A3 filed an appeal before the learned Additional District and Sessions Judge, Hosur, in C.A.No. 63 of 2024. The Appellate Court, while confirming the finding of guilt, had enhanced the sentence to 7 years RI and to pay a fine of Rs.1000/- for the offence under 392 r/w 397 of the IPC.

5. The Appellate Court found that the Trial Court erred in acquitting the petitioners/appellants/A1 to A3 for the offence under Section 397 of the IPC and convicting them only for the offence under Section 392 of the IPC and sentenced the petitioners/appellants to 7 years RI for the offence under Section 397 of the IPC.

6. Admittedly, the prosecution had not filed any appeal challenging the Judgment of the Trial Court. It is well settled in an appeal against conviction, the Appellate Court cannot enhance the sentence in the absence of any appeal by the *de-facto* complainant or the prosecution seeking enhancement of the



sentence or for convicting the appellant for a graver offence. This Court, in similar circumstances in Crl.R.C.No.381 of 2023, dated 11.12.2024, had observed as follows:

“13. It is also seen that though the learned Magistrate had sentenced the petitioner to four months simple imprisonment, the appellate Court had enhanced the sentence, which is impermissible. Section 386(b) of the Cr.P.C., which deals with the powers of the appellate Court in an appeal from a conviction reads as follows:

(b) in an appeal from a conviction

- a)reverse the finding and sentence and acquit or discharge the accused, or order him to be re-tried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or*
- b)alter the finding, maintaining the sentence, or*
- c)with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, but not so as to enhance the same;”*

Therefore, this Court is of the view that the Appellate Court ought not to have enhanced the sentence by convicting the petitioners/appellants/A1 to A3 for the offence under Section 397 of the IPC.



7. The learned counsel for the petitioners/appellants/A1 to A3 was unable to point out any infirmity in the Judgment of the Trial Court convicting the petitioners for the offence under Section 392 of the IPC. In any case, this Court finds no perversity in the finding of guilt rendered by both the Trial Court and the Appellate Court insofar as the occurrence is concerned. Therefore, this Court is of the view that the sentence imposed on the petitioners/appellants/A1 to A3 by the Trial Court is justified, and the conviction for the offence under Section 392 of the IPC and the sentence of 3 years RI and the fine of Rs.1000/- (id) SI for one month imposed on the petitioners/A1 to A3 by the Trial Court are confirmed. The sentences imposed on the petitioners by the Trial Court and the Appellate Court in respect of other offences, namely 341 and 506 (ii) of the IPC, are confirmed.

8. It is reported by the learned counsel for the petitioners/appellants/A1 to A3 that the petitioners have already undergone the period of sentence of three years imposed by the Trial Court. It is needless to say that if the petitioners/appellants/A1 to A3, have already undergone the sentence imposed on them, they need not be secured and confined. However, if the petitioners have not undergone the period of sentence now confirmed by this Court, the respondent shall be at liberty to secure them to undergo the remaining portion of the sentence. The fine amount already paid, if any, shall be adjusted against the



fine amount imposed now. The period of sentence already undergone by the petitioners/appellants/A1 to A3 shall be set off under Section 428 Cr.P.C.

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9. Accordingly, this Criminal Revision is partly allowed. Consequently, the connected miscellaneous petitions are closed.

12-02-2026
(3/3)

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

To
1.The Additional District and Sessions Judge,
Hosur.

2. The Assistant Sessions Judge,
Hosur.

3.The Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.



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CRL RC No.1677 of 2



SUNDER MOHAN J.

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and

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**12-02-2026
(3/3)**