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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 24-09-2026

PRONOUNCED ON : 27-10-2026

CORAM

THE HON'BLE MR.JUSTICE S.KARTHIKEYAN

CRL A(MD) No. 212 of 2018

CNR:{HCMD010868242018}

Kamaraj

..Appellant/Sole Accused

Vs

The State,
Represented by,
The Inspector of Police,
Thogamalai Police Station,
Karur District.
(Crime No.363 of 2016)

..Respondent/Complainant

PRAYER : Criminal Appeal filed under Section374(2) of Criminal Procedure Code to set aside the judgment and conviction dated 28.12.2017 by learned Additional Sessions Judge, Karur in S.C.No. 17 of 2017 and acquit the appellant.

For Appellant : Mr.S.Deenadhalayan

For Respondent : G.Ganesh Kumar,
Government Advocate (Crl. Side)

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JUDGMENT

The present Criminal Appeal is directed against the judgment of conviction and sentence passed by the learned Additional Sessions Judge, Karur, in S.C.No.17 of 2017, dated 28.12.2017.

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2. On a perusal of the records, it is seen that on 28.02.2016, the Sub-Inspector of Police, Sathya Priya, Thogaimalai Police Station, recorded Ex.P1 complaint statement of PW1 and registered Ex.P11 First Information Report in Crime No.363 of 2016 for the offences punishable under Sections 392 read with Section 397 of the Indian Penal Code.

3. The said First Information Report was placed before PW27, the Inspector of Police, Thogaimalai Police Station, who took up the investigation. She visited the place of occurrence at about 15.30 hours and prepared Ex.P2 Observation Mahazar and Ex.P12 Rough Sketch in the presence of PW7 Nagarajan and Balamuthu. He also recovered MO6 blood-stained soil, MO7 ordinary soil and MO1 Aruvalmanai (Scythe), under Ex.P3 Recovery Mahazar, in the presence of the same witnesses.

4. Thereafter, he proceeded to the Government Hospital, Tiruchirappalli, where the de-facto complainant, Chellammal was undergoing treatment as an inpatient, and recorded her statement. He thereafter examined PW2 Saravana, PW3 Ravi, PW4 Raja, PW5 Sundari, PW6 Boopathi, PW7 Nagaraj, Veeramalai and Balamuthu and recorded their statements.

5. On 27.08.2016, he examined Karuppanan, PW8 Murugesan, PW9 Senthil Kumar and PW10 Mariappan and recorded their statements. On receipt

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of secret information on 06.09.2016 at about 13.00 hours, he arrested the Accused in front of Karuppusamy Temple, Thogaimalai. He examined the Accused in the presence of PW11 Annadurai, Village Administrative Officer, and PW12 Bakkiyaraj, Village Assistant.

6. The Accused volunteered to give a confession, which was recorded in the presence of the said witnesses. Pursuant to the confession, the Accused took the police to the back side of Karuppusamy Temple and produced MO2 gold chain, MO3 one pair of gold studs, and MO4 gold nose stud, which had been concealed under a stone. The same were recovered under Ex.P5 recovery mahazar, in the presence of the said witnesses.

7. Thereafter, at about 15.00 hours, the Accused took the police to the Well drum situate in the garden of Chinna Nayakan and produced a blood-stained green-colour black-striped nylon rope, which was recovered under the cover of the recovery mahazar in the presence of the same witnesses. Thereafter, the Accused was taken to the police station and, at about 16.30 hours, a black-colour A069 Micromax cell phone, a Samsung OVOS mobile phone and a green-and-white striped T-shirt were recovered under Form-91. The said articles were forwarded to the jurisdictional Court under Ex.P13, Form-91.

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8. The Investigating Officer thereafter requested the victim to identify the recovered gold jewels, which she identified as belonging to her. He examined the witnesses Annadurai, Bakkiyaraj, Thangammal, Nagaraj, Marimuthu and recorded their statements. He also examined the witnesses Karthikeyan, Sathya Priya and Chellammal and recorded their statements. Thereafter, the Accused was remanded to judicial custody.

9. The Investigating Officer also collected the call detail records relating to the relevant mobile phone numbers, 9952172612, 9087513046, 8489830674, 8489466005, 7202662207. On 16.10.2016, he examined the witnesses Narayanan, Velu, Manikandan, Thirumoorthy, Priya, Sakthivel, Sujatha and recorded their statements. He obtained the wound certificates from Dr.Ramesh and Dr. Prasath and recorded their statements.

10. Thereafter, he obtained the draft final report and altered the case Section 392 read with Section 397 of IPC to Section 394 read with Section 397 of IPC and Ex.P14 Alteration Report was forwarded to the jurisdictional Court. On completion of the investigation, the final report was laid before the learned Judicial Magistrate on 24.11.2016.

11. The learned Judicial Magistrate No.I, Kulithalai, has taken cognizance of the final report, issued summons to the Accused and, upon his appearance,

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furnished copies of the documents relied upon by the prosecution under Section 207 of Cr.P.C. Since the offences were exclusively triable by the Court of Sessions, the case was committed to the Principal District and Sessions Court, Karur, under Section 209 of Cr.P.C.

12. The learned Principal District and Sessions Judge, Karur, has taken cognizance of the case in S.C.No.17 of 2017 and made over the same to the learned Additional Sessions Judge, Karur, for trial in accordance with law.

13. The learned Additional Sessions Judge, Karur, has framed charges against the Accused for the offences punishable under Sections 394 read with Section 397 of IPC. The charges were read over and explained to the Accused. The Accused denied them and therefore they were tried by the Trial Court.

14. To substantiate its case, the prosecution examined PW1 to PW27 and marked Ex.P1 to Ex.P14 and MO.1 to MO.7. Upon completion of the prosecution evidence, the incriminating circumstances appearing in the evidence of the prosecution witnesses were put to him under Section 313(1)(b) of Cr.P.C. The Accused denied the same as false. Though he stated that he has witnesses on his side, no witness was examined and the defence side evidence was closed.

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15. Upon hearing both sides, the Trial Court has found the Accused guilty of the offence punishable under Section 394 of IPC and sentenced him to undergo ten years of rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one month of simple imprisonment. In respect of the offence under Section 397 of IPC, the Accused was sentenced to undergo seven years of rigorous imprisonment. The sentences were directed to run concurrently.

16. Aggrieved by the said conviction and sentence, the Accused has preferred the present appeal. Heard the learned counsel for the appellant and the learned Government Advocate (Criminal Side) appearing for the State. The records of the Trial Court have been called for and perused.

17. <u>Point For Determination:</u>

Whether the conviction and sentence imposed on the appellant is sustainable?

<u>Answer:</u>

18. On a careful perusal of records, it is found that it is the case of the prosecution that on 20.08.2016 at about 8.00 a.m., while the de-facto complainant, Chellammal, was cooking at the backyard of her house situate at Vellapatti, within the jurisdiction of Thogaimalai Police Station, Kulithalai Taluk, Karur District, the Accused approached her from behind, caught hold of her neck, pushed her down and snatched a two-sovereign gold chain from her

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neck. It is further alleged that he cut both her ears with an Aruvalmanai (Scythe) and removed the ½ sovereign gold studs and also snatched the ½ sovereign gold nose stud from her nose. According to the prosecution, the gold jewels robbed were worth about Rs.30,000/-. Thus, the actions of the Accused are punishable under Section 394 read with Section 397 of IPC. To substantiate the said case, the prosecution examined PW1 to PW27 and exhibited Ex.P1 to Ex.P14 and MO.1 to MO.7.

19. PW1 is the de-facto complainant. She, in her evidence, deposed that she was residing at Old Kallupatti, Kulithalai Taluk, and that she owned agricultural land and a farmhouse at Vellapatti. She used to go to her agricultural land at about 6.00 a.m. and return by about 8.00 p.m. She would also cook at the farmhouse. According to PW1, about one year prior to the occurrence, while she was cooking, the appellant came there, placed a rope on her neck, strangulated her and snatched the gold chain from her neck. As a result, she became unconscious and sustained injuries on her neck. Thereafter, the Accused cut both her ears with an Aruvalmanai (Scythe) and removed the gold studs. He also snatched the gold nose stud.

20. PW1 further deposed that she regained consciousness after about half an hour and informed the occurrence to her neighbour PW2 Saravana. PW3 Ravi took her on his motorcycle and dropped her at the house of her grandson

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PW4 Raja. PW4 Raja and PW5 Sundari thereafter took her to the Government Hospital, Manapparai, from where she was referred to the Government Hospital, Thiruchirappalli, for further treatment. The Sub-Inspector of Police, Thogaimalai Police Station, enquired her and she gave Ex.P1 complaint statement. PW1 identified M.O.1 Aruvalmanai (Scythe), and also identified M.O.2 gold chain, M.O3 gold studs and M.O.4 gold nose stud as belonging to her.

21. PW1 further deposed that the Accused had earlier come to her field for repairing the motor. She also stated that, three days prior to the occurrence, her cell phone and a sum of Rs.900/- kept in her pouch were found missing. She identified the said cell phone as M.O.5. She further stated that she was admitted in the hospital for about one day and thereafter discharged on her own will.

22. PW2 Saravana, a neighbour of PW1, deposed that PW1's agricultural land was situate about one kilometre from her house. According to her, about one year prior to the occurrence, PW1 informed her that her jewels had been snatched while she was in the field. She further stated that PW3 took PW1 on his motorcycle.

23. PW3 Ravi deposed that on 20.08.2016, while he was proceeding to his field, he saw PW1 and PW2 talking to each other. PW1 was not in a

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position to walk properly. Her ears had been cut and there were bloodstains on her face. On enquiry, PW1 informed him that somebody had attacked her and snatched her gold chain and studs. Since she was not in a position to proceed on her own, he took her in his vehicle and dropped her at her house.

24. PW4 Raja, the grandson of PW1, deposed that PW1 owned about four acres of agricultural land on the eastern side of Vellapatti and that she used to go to the field at about 6.00 a.m. On 20.08.2016, PW1 had gone to the field at about 6.00 a.m. At about 8.45 a.m., PW1 was brought by PW3. PW4 noticed injuries on her neck, face and ears and found that she was bleeding. He enquired PW1 and she informed him about the occurrence. Thereafter, PW4 Raja and PW5 Sundari took her to the Government Hospital, Manapparai, and subsequently to the Government Hospital, Tiruchirappalli, for further treatment. At the Government Hospital, Tiruchirappalli, the police from Thogaimalai Police Station came and PW1 gave her complaint statement. PW5 Sundari deposed in line with the evidence of PW4.

25. PW6 is a neighbour of PW1. He deposed that he used to see PW1 at about 8.00 a.m. or 6.00 p.m. On 20.08.2016, as his father had gone to the temple, he went to his field at about 5.00 a.m. for watering the plants. Since there was no electricity, he returned to his house. Thereafter, he was informed that a crowd had gathered in the field and, therefore, he returned to the field.

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By then, the police were present there. He came to know that PW1's chain, ear studs and nose stud had been snatched by some person.

26. PW7 Nagaraj, one of the witnesses to the Observation Mahazar, deposed regarding the preparation of Ex.P2 Observation Mahazar, and the recovery of M.O.6 blood-stained soil, M.O.7 ordinary soil and M.O.1 Aruval manai (Scythe) under Ex.P3 Recovery Mahazar.

27. PW8 Murugesan, PW9 Senthil Kumar and PW10 Mariappan did not support the case of the prosecution and were treated as hostile.

28. PW11 Annadurai, the Village Administrative Officer of Thogaimalai Village, deposed that on 06.09.2016, he and his Village Assistant, PW12 Bakkiyaraj, had gone to a place near Karuppasamy temple in connection with their official work. At that time, the Inspector of Police was in search of the Accused. The Accused was found hiding near the said place. He gave a confession, which was recorded. However, PW11 subsequently stated that the confession was recorded by the Inspector of Police and that he had signed the same. Thereafter, PW11 Annadurai accompanied the Inspector of Police and the Accused. The Accused produced a nylon rope which was concealed near a well. He also took them to a place near Karuppasamy temple and handed over a gold chain, one pair of ear studs and one pair of nose studs, which had been

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wrapped in a paper. The same were handed over to the Inspector of Police and recovered under Ex.P5 Recovery Mahazar. PW12, the Village Assistant of Thogaimalai Village, deposed in line with the evidence of PW11.

29. PW13 Nagaraj deposed that the father of the Accused had borrowed a sum of Rs.50,000/- from him in June 2016. PW14 Marimuthu deposed that he was running a factory in the name of Sri Vinayaga Lathe Works at Thogaimalai. According to him, the Accused and two other persons were working under him and he knew the Accused. On 10.08.2016, PW1 informed him that her motor was not functioning and requested that it be repaired. Accordingly, he sent the Accused, Narayanan and Velu to attend the repair work.

30. PW14 further deposed that on 13.08.2016, PW1 gave a sum of Rs.7,500/- to the Accused towards the charges for repairing the motor and that the Accused handed over the said amount to him. On 20.08.2016, he came to know about the occurrence. About a week thereafter, he heard that the Accused had been arrested by the police.

31. PW15 Karthikeyan, a member of the Dog Squad, deposed that on 20.08.2016 at about 3.30 p.m., he went along with the sniffer dog Stephie to the place of occurrence. He allowed the dog to smell the blood-stained aruval

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manai and the earth. The dog moved around the farmhouse, came behind the house and thereafter proceeded towards the northern side along Vellapatti-Trichy road. It ultimately proceeded towards Vellapatti Bridge and stopped near a water tank. He submitted Ex.P6 report regarding the trail of the dog.

32. PW16 Dr.Prakash, the then Assistant Surgeon, Government Hospital, Manapparai, deposed that on 20.08.2016 at about 10.00 a.m., while he was attending to casualty patients, the de-facto complainant, aged about 60 years, was brought by PW5 Sundari. They informed him that at about 8.00 a.m., an unknown person had threatened her with a knife and snatched her ear studs and chain. PW16 found lacerated injuries on both ears and noted that the victim was suffering from nausea. He provided first aid. Since she complained of nausea, a head injury was suspected, she was referred to the Government Hospital, Tiruchirappalli, for further treatment. In this regard, he issued Ex.P7 Accident Register.

33. PW17 Narayanan, a resident of Kurinji Nagar, Thogaimalai, deposed that he was doing pipe-fitting and coolie work under one Sivanantham and Marimuthu. About one year prior to the occurrence, he and Velu and Kamaraj had gone to a field to attend to repair work. After completing the work, they returned to the workshop. During the course of the work, he had seen the Accused. Subsequently, he came to know that the Accused had been arrested in

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connection with the present case.

34. PW18 Velu deposed that about one year prior to the occurrence, he, Kamaraj and Narayanan had gone to the field of Chellammal to repair the motor. After completing the work, they returned to the workshop. He subsequently came to know that the Accused had been arrested in connection with the snatching of PW1's ear studs, nose stud and chain.

35. PW19 Shaktivel deposed that he was doing mobile starter repair work at Vellapatti. About one year prior to the occurrence, Chellammal requested him to arrange a SIM card for operating the motor at her field. Accordingly, he arranged an Airtel SIM card bearing No.9952172612 through a mobile phone and fixed the same in the starter installed at Chellammal's field. The said SIM card stood in his name.

36. PW20 Thangammal deposed that she was the President of a Self-Help Group. She had lend a sum of Rs.40,000/- twice to the mother of the Accused for purchasing cattle. At that time, the Accused was constructing a house. She knew the Accused, but she stated that she did not know anything about the present case.

37. PW21 Manikandan deposed that he was working in the workshop of Marimuthu. He did not depose anything incriminating with regard to the

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occurrence and, therefore, he was treated as hostile by the prosecution.

38. PW22 Priya deposed that she was working as a Supervisor at KPR, Garments, Tiruppur. She had been using a SIM card bearing No.8508319491 for about 11 months. The said SIM card had been purchased by her father for her. She further stated that one Anushuya, who belonged to her village, had accompanied her to the place of employment. She did not know whether the said mobile phone was used by Anushuya.

39. PW23 Thirumurthy deposed that the Accused is his brother and that he was working as a lorry driver. He stated that about three months prior to his examination, his mobile phone containing Aircel SIM No.7502662207 was found missing. Thereafter, he did not know who had used the said SIM card.

40. PW24 Grade-II Police Constable, deposed that on 06.10.2016, pursuant to the instructions of the Inspector of Police, Thogaimalai Police Station, he went to Door No.4/12, Tharna Kovil Road, Srirangam, Tiruchirappalli District, where the mobile phone bearing No.7502662207 was registered. In this regard, he submitted Ex.P8 report to the Inspector of Police.

41. PW25 Dr.Ramesh deposed that on 20.08.2016 at about 12.20 p.m., while he was working as Assistant Professor at the Government Medical College Hospital, Tiruchirappalli, the victim was brought by PW5 Sundari for

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further treatment. She informed him that at about 8.00 a.m. on the same day, an unknown person had snatched her chain. Thereafter, she was given first aid and forwarded to the Government Hospital, Trichy, through a 108 ambulance. He found a stitched wound on her right ear measuring about 3 cm. On the left ear, there was a lacerated wound measuring 2 cm x 2 cm x 1 cm. A lacerated wound was also found on the front side of the neck. Small abrasions were found on her body. She was admitted as an inpatient for further treatment. However, without taking any further treatment, she absconded from the hospital on 20.08.2016 at about 8.00 p.m. The details regarding the treatment were forwarded to the Government Hospital, Manapparai. The Accident Register recorded by him was marked as Ex.P9.

42. PW26 Sujatha, is the District Nodal Officer. At the request of the Inspector of Police, Thogaimalai Police Station, for the purpose of investigation in connection with Crime No.363 of 2016, she furnished Ex.P10 report with regard to the call detail records, owners name, address particulars, IMEI numbers and other particulars relating to the mobile phone numbers 9952172612, 9087513046, 8489830674, 848966005, 7502662207.

43. PW27 Suresh Kumar, is the Investigating Officer. He, in his evidence, deposed about the registration of the First Information Report by the Sub-Inspector of Police, Sathiya Priya, preparation of the Observation Mahazar and

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Rough Sketch, collection of Blood-stained soil, Ordinary soil and Aruval manai from the scene of occurrence, examination of witnesses, arrest of the Accused and recording of his confession, recovery based on his disclosure, collection of call detail records, recovery of the dresses of the Accused and the cell phone and filing of the final report before the Trial Court.

44. On a careful perusal of the evidence projected on the side of the prosecution, it is found that PW1, the injured/de-facto complainant, has clearly deposed that it was the appellant who snatched the chain from her neck, cut and removed her ear studs and snatched her nose stud.

45. The learned counsel for the appellant contended that, even according to the case of the prosecution, the robber approached the victim from behind, attacked her and removed the gold jewels worn by her. Therefore, according to the learned counsel for the appellant, the injured could not have any opportunity to see the face of the robber. It is further contended that, since the police had implicated the appellant herein, PW1 had mechanically identified him in the dock. Hence, according to the learned counsel for the appellant, the evidence of the victim cannot be believed at all.

46. However, the prosecution has examined PW17 Narayanan, PW18 Velu, PW21 Manikandan and PW14 Marimuthu to establish that PW17 and

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PW18, who had accompanied the Accused to the field of PW1 Chellammal for attending repair of motor. Though PW21 did not support the case of the prosecution, the evidence of PW14, PW17 and PW18 clearly discloses that the appellant had gone to the field of PW1 along with the said witnesses and carried out the repair work. Therefore, the victim had prior acquaintance with the appellant. Further, the evidence of PW14 makes it clear that it was the appellant who had received the charges for the said repair work on 13.08.2016, about a week prior to the occurrence. Therefore, the face of the appellant was already known to PW1.

47. Further, Ex.P1, complaint also discloses that the robber was wearing a banyan/T-shirt of black and green colour. From the evidence of the Investigating Officer, it is found that the Accused was arrested on 06.09.2016 at about 13.00 hours and pursuant to his disclosure statement, a green and white striped T-shirt was recovered under Ex.P13 Form-91. On careful perusal of Ex.P13, it is found that the said T-shirt was produced before the Court. However, the same was not marked as a material object.

48. Further, from the evidence of the Investigating Officer, it is found that, pursuant to the disclosure made by the appellant, MO2 to MO4 jewels were recovered. The said evidence of the Investigating Officer was corroborated by PW11 Village Administrative Officer and PW12 Village Assistant. The said

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recovery was effected under Ex.P5 Recovery Mahazar.

49. The learned counsel for the appellant contended that the Village Administrative Officer, in his cross-examination, had stated that the Investigating Officer had recorded the confession statement in his own handwriting, whereas the confession statement produced before the Court was a typed one. Therefore, according to the learned counsel for the appellant, the Village Administrative Officer has not witnessed the confession and recovery. It was further contended, relying upon the cross-examination of the Village Assistant, that the witnesses had signed the confession statement only at the police station. Hence, according to the learned counsel, the confession was recorded only at the police station and not at the place where the Investigating Officer is said to have nabbed the appellant.

50. It is true that PW12 Bakkiyaraj, Village Assistant, in his evidence, admitted that he had signed the confession statement only at the police station. The fact that the confession statement is computerised makes it very clear that the confession was recorded only at the police station not at the place where the appellant was said to have nabbed. The said confession being a confession to a Police officer, nothing wrong in recording the said confession in the police station. The witnesses, in their cross-examination, have stated that the Investigating Officer had written the confession due to the fading of memory.

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Whether the confession statement was handwritten or computerised will not make any difference as it is inadmissible in evidence except to the extent permission under Section 27 of the Indian Evidence Act.

51. What is germane is as contemplated under Section 27 of the Indian Evidence Act, 1872 whether the confession leads to a disclosure of fact or not. In the present case, pursuant to the disclosure made by the appellant, the gold jewels were recovered. The victim identified the said jewels as belonging to her and obtained interim custody of the same by filing an application. She also identified the said jewels in the witness box, and the same were marked as MO2 to MO4. The said identification is relevant under Section 9 of the Indian Evidence Act.

52. It is not the case of the appellant that the said jewels belonged to him. It is also not the case of the appellant that the said jewels came into his possession in a manner having been handed over by the victim herself or by any other person by way of gift. As per Section 114(a), of the Indian Evidence Act is that a man who is found in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession. Therefore, it is for the appellant to show as to how he has acquired the possession of MO2 to MO4, the gold jewels. In the absence of any satisfactory explanation from the appellant, the presumption

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contemplated under Section 114(a), of the Indian Evidence Act would come into the aid of the prosecution.

53. On a careful perusal of the evidence of PW11 and PW12 and their cross-examination, it is found that the appellant has disputed only the recovery. He has not claimed ownership over the said jewels. Further, no suggestion was put to PW1 that the jewels did not belong to her. Therefore, this Court is of the considered view that the prosecution has proved the commission of the offence of robbery as against the appellant herein.

54. However, the learned counsel for the appellant contended that, as per the charge, the appellant was charged for the offence punishable under Section 394 read with Section 397 of IPC. However, the Trial Court had convicted and sentenced the appellant separately under Sections 394 and 397 of IPC. According to the learned counsel for the appellant, conviction and sentence imposed by the Trial Court is completely illegal. It is true that the Trial Court has recorded a conviction against the appellant for the offences punishable under Sections 394 and 397 of IPC separately and sentenced him to undergo rigorous imprisonment for a period 10 years and 7 years, respectively.

55. In this connection, it would be useful to extract the relevant provisions of Sections 394 and 397 of IPC.

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394. Voluntarily causing hurt in committing robbery.—

If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

397. Robbery, or dacoity, with attempt to cause death or grievous hurt.—

If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

Section 397 of IPC is not a penal provision but it prescribes minimum sentence in cases of robbery or dacoity, at the time of committing robbery or dacoity if the offender uses a deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person. Therefore, it is not a substantive penal provision. Section 397 of IPC can be taken aid in cases where the prosecution establishes that the offender used a deadly weapon or caused grievous hurt, or attempted to cause death or grievous hurt, while committing the robbery or dacoity.

56. It is not the case of the prosecution that the appellant herein used a deadly weapon. Though PW1 has stated that the appellant used an Aruvalmanai (Scythe) for cutting her ears, the evidence does not establish that the weapon

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was used for putting her in fear of instant death, instant hurt or wrongful restraint. It was used only as a tool for cutting her ears and removing the gold studs. Further, the injuries sustained by the victim have not been certified by the doctor as grievous hurt. The injuries are only simple in nature. Therefore, invoking Section 397 of IPC does not arise in this case at all.

57. On the other hand, Section 394 of IPC says, if any person, in committing or attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Therefore, the facts of the present case squarely fall within the ambit of Section 394 of IPC.

58. Accordingly, the finding of the Trial Court that the appellant is guilty of the offence punishable under Section 397 of IPC and the sentence imposed upon him for the said offence are liable to be set aside.

59. Though the learned counsel for the appellant contended that the appellant has no previous bad antecedents and that the sentence imposed upon him is on the higher side, this Court finds that the appellant had taken advantage of the loneliness and age of the victim and entered into her field, where he

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snatched her gold jewels by cutting her ear and nose, without showing any mercy.

60. Therefore, this Court is of the considered view that considering the aggravated form of the offence charged and proved, this Court is of the view that the sentence imposed by the Trial Court is reasonable and justifiable. Therefore, this Court finds no reason to interfere with the sentence imposed by the Trial Court.

61. In the result, this Criminal Appeal is partly allowed. The conviction and sentence imposed on the appellant for the offence punishable under Section 397 of IPC is hereby set aside. The conviction and sentence imposed on the appellant by the Trial Court for the offence punishable under Section 394 of IPC is sustained. The bail bond executed by the appellant is cancelled. The appellant is entitled to the benefit of set-off under Section 428 of the Code of Criminal Procedure. The Trial Court is directed to secure the appellant to serve the remaining period of sentence.

27-10-2026

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

1. The learned Additional Sessions Judge,
   Karur.

2. The Inspector of Police,
   Thogamalai Police Station,
   Karur District.

3. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court,
   Madurai.

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