

IN THE COURT OF THE JUDICIAL MAGISTRATE NO II, RAMANATHAPURAM**Present: Thiru. G.PRABHAKARAN, B.A.,B.L.,(HONS)****Judicial Magistrate No II, Ramanathapuram****Wednesday, the 19th day of April 2023****CC. No. 633/2022****CNR NO: TNRM02-010284-2022****State rep by its****Inspector of Police,****Kenikarai Police station,****Ramanathapuram,****Crime No. 590/2020****... Complainant****Vs.****1. Palraj,****S/o. Veluchamy,****Pulikkara Street,****Ramanathapuram.****2. Pandi,****S/o. Sri Rangam,****Pulikkara Street,****Ramanathapuram.****... Accused**

1.	Serial Number	C.C.No. 633 of 2022
2.	Name of the Police Station and Crime Number	Kenikarai Police Station Crime No.590 of 2020
3.	Name of the Accused	1. Palraj 2. Pandi
4.	Father's name	1. Veluchamy 2. Sri Rangam
5.	Occupation	-
6.	Residence	Both accused are residing at Pulikkara Street, Ramanathapuram.
7.	Age	1. 58 years 2. 31 years
8.	Occurrence date	25.09.2020
9.	Date of Complaint	26.09.2020
10.	Date of Apprehension	A1 and A2 - 22.04.2021
11.	Released on bail	A1 - 20.05.2021 A2 - 05.12.2022

12.	Commitment	Not Applicable
13.	Date of Commencement of Trial	06.02.2023
14.	Date of Closure of Trial	19.04.2023
15.	Sentence or Order	The Accused A1 and A2 are found not guilty of offence u/s. 414 IPC. Hence both the accused is acquitted of all charges u/s. 248(1) Cr.P.C. The Bail Bond of the accused shall stand cancelled after the lapse of limitation for preferring the appeal. The M.O.1 in P.R.No.118/2022 is ordered to be delivered to true owner after appeal period.
16.	Service of copy of judgment or finding on accused	No
17.	Explanation of delay	The Final report was filed by the police on 20.09.2022. The case was taken on file by this court on 01.12.2022 and Judgment is pronounced on 19.04.2023. There is no unreasonable delay on the part of the accused.

This case came up for final hearing before this court on 19.04.2023 in the presence of Learned Assistant Public Prosecutor Tmt.Amarajothi and Thiru.Sureshkumar, Learned counsel for the accused. After having perused the records of the case, and hearing both sides and having stood over for consideration till this day, this court delivers the following:

Judgment

1. The officer in charge of the kenikarai police station filed charge sheet pertaining to the accused persons in Crime No.590/2020 stating that on 25.09.2021 at 11.30 P.M., the juvenile had stolen defacto complainant's two wheeler bearing Registration No. TN 65 P 0204 which was parked in front of the defacto complainant's house. Thereafter the juvenile had sold the said vehicle to accused A1 and A2. The accused A1 and A2 who having knowledge that the said vehicle is a stolen property had purchased and sold the vehicle for Rs.2,000/- by breaking the vehicle into pieces. Thereby the accused persons had committed offence punishable u/s 414 IPC.

2. Cognizance:

On the receipt of the charge sheet, this court satisfied that prima facie case made out against both the accused. Therefore took cognizance of the offences u/s 414 IPC. After

taking cognizance, this court issued summons to the accused. On the receipt of summons, both the accused appeared before this court. After their appearance, this court furnished copies of the case records u/s 207 Cr.P.C at free of cost to both the accused.

3. Framing of Charges

After furnishing copies, this court being satisfied that there is sufficient ground for proceeding with the case, framed charges as against both the accused u/s. 414 IPC. After that the charges were read over and explained to the accused. Having understood the charges, both the accused pleaded not guilty and claimed to be tried. Hence this Court ordered for trial of the case.

4. Prosecution Witnesses:-

In order to prove the prosecution case, PW1 to PW5 were examined on the side of the prosecution and Ex. P1 to Ex.P8 and M.O.1 were marked on the side of the prosecution.

5. Evidence of the prosecution in Brief:

5.1. PW1 deposed that he does not know anything about the case. He admitted his signature in the complaint. The complaint was marked as Ex.P1. PW2, PW3 and PW4 deposed that they do not know the accused and the case details.

5.2. PW5 deposed evidence based on the documents as the investigation officers of this case got transferred to some other district. He had deposed that on 26.09.2020 at 08.30 A.M. when Mr.Kukaneshwaran was discharging his duty as the Sub Inspector of Kenikarai police station, based on the complaint received from PW1, he had registered First Information report in Crime No. 590/2020 u/s 379 IPC. The FIR was marked as Ex.P2. Then on the same day at 09.30 A.M. he proceeded to the scene of occurrence and prepared observation mahazar and rough sketch in the presence of Nagoor and Parthiban. The rough sketch was marked as Ex.P3 and observation mahazar was marked as Ex.P4. He examined the witnesses of this case and recorded their statements. Then the case records were handed over to Inspector of police Mr.Malaisamy. On 21.04.2021 at 12.15 A.M. he arrested the juvenile involved in this case near Muniyamma junction and recorded the confession statement in presence of Ganeshan and Sridhar. Based on the confession statement, he recovered two wheeler bearing Registration No. TN 65 H 5781 from the juvenile. Based on the confession statement of the juvenile, the Inspector arrested the accused persons at 02.30 P.M. at Balu iron shop, Ramanathapuram Pulikara street. Then he recorded the confession

statement of accused A1. The admitted portion of the confession statement was marked as Ex.P5. Thereafter he recovered case property from the accused A1 through the seizure mahazar which was marked as Ex.P6. Cash Rs.200/- was marked as M.O.1. Then the Inspector altered the charges from 379 to 379, 414 IPC and filed alteration report before the court. The alteration report was marked as Ex.P7. The accused persons were subjected to judicial custody. Then he remanded the case property before this court through Form No.91 which was marked as Ex.P8. After the completion of investigation, he laid charge sheet before this court.

6. 313 Proceedings:-

After the completion of prosecution evidence, the accused were questioned u/s 313 1(b) of Cr.P.C. The Incriminating circumstances were put forth to the accused. Both the accused denied the prosecution evidence and the incriminating circumstances put forth to them. The Defence side did not examine any witness on their side. No exhibits and material objects were marked. Hence the defence side evidence was closed.

7. Points for determination:

Upon hearing the arguments of both sides and perusing the connected documents and records, the question that arises for consideration of this court is

a) Whether the prosecution has proved the case beyond all reasonable doubt as against the accused?

8. Appreciation of Evidence and Discussion:

8.1. In the instant case, the accused persons were charged for voluntarily assisting in disposing of stolen property. In order to prove the guilt of the accused persons, the prosecution has examined PW1 to PW5, marked Ex.P1 to Ex.P8 and M.O.1.

8.2. PW1 is the defacto complainant in this case. He was examined by the prosecution to prove the theft of case property. PW1 had categorically deposed in his chief examination that he does not know the accused and about the case details. He had only admitted his signature in the complaint. Therefore he was treated as hostile witness and cross examined by the prosecution. All the valiant efforts of the prosecution in the cross examination went in vain as no incriminating evidence could be extracted as against the accused persons. From the analysis of the evidence of PW1, this court holds that the theft of property is itself not proved by the prosecution through PW1. The evidence of PW1 is

totally disregarded by this court.

8.3. Since PW1 turned hostile and did not support the prosecution case, the prosecution relied heavily on the evidences of PW2 and PW3 to prove the theft of case property. But unfortunately for the prosecution, PW2 and PW3 also turned hostile and did not support the prosecution case. They had categorically deposed that they do not know the accused persons and about the case. Therefore this court holds that the prosecution could not able to prove the theft of case property through PW2 and PW3. The evidences of PW2 and PW3 did not aid the prosecution in any way as no incriminating evidences could be extracted even in their cross examination by the prosecution.

8.4. PW4 is the confession statement and seizure mahazar witness in this case. He was examined by the prosecution to prove the recovery of case property from the accused A1. PW4 is the last hope for the prosecution to implicate the accused persons in this case because as per the prosecution he has witnessed the recovery of case property from the accused A1. But PW4 had categorically deposed in his chief examination that he does not know the accused and the case details. Further he denied making signatures in the confession statement and the seizure mahazar. Therefore he was treated as hostile witness and cross examined by the prosecution. From the close scrutiny of evidence of PW4, this court holds that the recovery of case property from the accused A1 has not been satisfactorily proved by the prosecution in this case.

8.5. PW5 is the present officer in charge of the police station. He had deposed only about the registration of FIR, preparation of observation mahazar and the rough sketch at the scene of occurrence, examination of witnesses and laying of charge sheet before this court. Therefore the evidence of PW5 did not lend much support to the prosecution case in establishing the identity of the accused and offence alleged to have been committed by them.

Therefore in view of the above discussions, this court holds that the identity of the accused is not proved beyond reasonable doubt and there is absolutely no piece of evidence as against the accused. The recovery of property from the accused is not proved beyond reasonable doubt by the prosecution. So the prosecution has miserably failed to prove the case beyond all reasonable doubt as against both the accused. Hence the benefit of doubt ought to be reckoned in favor of the accused.

9. Decision:

In the result, the accused A1 and A2 are found not guilty of offence u/s 414 IPC. Hence the accused are acquitted of all charges in exercise of powers u/s 248(1) Cr.P.C. by reason of benefit of doubt. The Bail Bond of the accused shall stand cancelled after the lapse of limitation for preferring the appeal.

The M.O.1 in P.R.No.118/2022 is ordered to be delivered to true owner after appeal period.

Dictated to typist, typed by her, corrected and pronounced by me in the Open Court on this the 19th day of April, 2023.

Appendix – A

Prosecution side Witness:

S.No	Rank of Witness	Name of the Witness	Ramarks
1.	PW1	Murali, S/o. Manickam	Defacto Complainant
2.	PW2	Senthilkumar, S/o. Manickam	Formal Witness
3.	PW3	Venkatesan, S/o. Ravindran	Formal Witness
4.	PW4	Sridhar, S/o. Dhanagopal @ Dhanapal	Confession Statement and Seizure Mahazar Witness
5.	PW5	Naganatha Sethupathy, S/o. Mani	Head Constable

Appendix – B

Prosecution side Exhibits:

S.No	Exhibit	Description of document
1.	Ex.P1	Complaint
2.	Ex.P2	First Information Report

3.	Ex.P3	Rough Sketch
4.	Ex.P4	Observation mahazar
5.	Ex.P5	Admitted portion of confession statement
6.	Ex.P6	Seizure Mahazar
7.	Ex.P7	Alteration Report
8.	Ex.P8	Form 91

Appendix – C

Material objects

S.No	Exhibit	Description of document
1.	M.O.1	Rs.2000/-

Appendix – D

Defence side witnesses - NIL

Appendix – E

Defence side Exhibits - NIL

Note:

1. No witnesses detained more than three times.
2. Nature of disposal communicated to the concerned Police.
3. The Accused are on bail during the pronouncement of Judgment.