

**IN THE COURT OF XV ADDL. METROPOLITAN MAGSTRATE, MEDCHAL-
MALKAJGIRI DISTRICT, AT KUKATPALLY**

Tuesday, the 13th day of February, Two thousand and Twenty-four

Present: **Sri R.K. VENKATA RAMANA SUHAS,**
XV Additional Metropolitan Magistrate,
KUKATPALLY, MEDCHAL-MALKAJGIRI DISTRICT

C.C. No. 2586 of 2018

Between:

State of Telangana through Sub-Inspector of Police, P.S., KPHB

...Complainant

AND

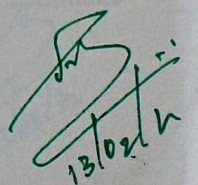
Mohammed Saddam @Mohammed Dastagir, S/o Mohd. Janimiyan, aged 24 years, Occ: Auto driver, R/o H. No. 8-3-169/460/23, Habeeb Fathima Nagar, Borabanda, Hyderabad, N/o Chetla Malkapur village, Zaheerabad mandal, Medak District

...Respondent/Accused

This criminal case is coming on this day for Judgement before me in the presence of the Ld. Assistant Public Prosecutor, for the State and B. Siddaiah, G. Nagaraju and K. Uma Devi, Ld. counsel appearing for the for the accused, the matter having stood over for consideration till this day, this court delivered the following:

JUDGEMENT

1. The present calendar case arises out of charge sheet filed in crime no. 471 of 2018, laid by Sub-Inspector of Police, P.S. KPHB, for the offence under section 380 of the Indian Penal Code, 1860 i.e. Theft in a dwelling house etc.
2. The case of the prosecution stated in brief, is that on 13.05.2018, at 1200 hours, PW1 (Sri P. Laxminarayana), filed a report before P.S. KPHB, stating as follows: In the early monring hours, at about 0230 hours, some unkown accused persons entered into his hostel i.e. Tajuna Ladies Hostel, Temple Buse stop, KPHB colony and committed theft of 6 mobile phones i.e. 1. Apple 8 IMEI No. 356704085763933, 2. Moto G4 Plue IMEI No. 358223076688114, 3. Moto E3 Power IMEI No. 358188074965972, 4. MI IMEI No. 866409039749466, 5. Moto G5 IMEI No.

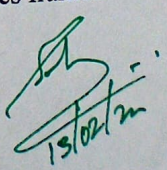


356477086380896 and 6. Micro Max IMEI No. 911441754552234, from hostel room. He has therefore, requested for action to be taken in the matter.

3. Based upon the same, LW6-Sri Ch. Kushalkar, Inspector of Police, P.S. KPHB registered an FIR, vide crime no. 471/2018, under section 380 of IPC and entrusted the investigation to PW2. During the course of investigation, LW7-Mohd. Nadeem, Hussain, examined and recorded the statement of PW1, visited the scene of offence, secured the presence of panch witnesses, LW2-Sri B. Vittal Goud and LW3-Sri B. Satyababu and conducted scene of offence panchnama in their presence and drew rough sketc. While the investigaiton was thus pending, on 28.05.2018 LW6-Sri Ch. Kushalkar received credible information from LW7-Sri Mohd. Nadeem Hussain, that the accused was arrested in Cr. No. 28.2018, under section 457 and 380 of IPC, P.S. Raidurgam and that during interrogation, he also confessed to have stolen the mobile phones in this case, that five of them were kept at his house and that the remaining one moblie phone was sold for ₹ 1,000/- and used for his lavishness. A detailed confession-cum-seizure panchnama was recorded in the presence of LW4-Sri Bharatakavi Anjaneyulu and LW5-Sri Madagonallu Janardhan. The mobile phones were recovered at the instance of the accused. The accused was thereafter taken into custody into the present matter too, through the issue of a PT warrant and was later, released on bail, in due course. PW2 collected the relevant documents from LW7-Sri Mohd. Nadeem Hussain. After the completion of the investigation, PW2 filed a charge-sheet before the court.

4. On filing of the charge-sheet, the Court took cognizance of the offence under section 380 of the Indian Penal Code, 1860 i.e. Theft in dwelling house etc.

5. On appearance of the accused, copies of case documents were furnished to him in compliance under section 207, Code of Criminal Procedure, 1973. The accused was thereafter examined under sec. 239, Code of Criminal Procedure, read over and explained the charges framed



against them for the offence under section 380 of the Indian Penal Code, 1860, i.e. theft in a dwelling house etc., to which he pleaded not guilty and claimed to be tried.

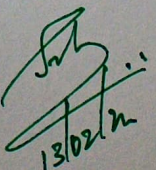
6. During the course of trial, the prosecution has gotten examined PW1 and PW2 and got marked Exs. P1 to P4. The evidences of LW2-Sri B. Vittal Goud and B. Satyababu were closed by the court on 06.09.2019 and that of LW4-Sri Bharatakavi Anjaneyulu and LW5-Sri Madagonallu Janardhan was closed on 01.10.2019, due to the failure of the prosecution to have the summons served and secure their presence. Ld. APP gave up LW6-Sri Ch. Kushalkar, Insepctor of Police, P.S. KPHB and LW7-Sri Mohd. Nadeem, Hussain, Sub-Inspector of Police. After the completion of the prosecution evidence, the accused was examined under section 313 of the Code for the incriminating material found against him.

7. Heard both sides and perused the record. The following points arise for the determination of this Court:

- (i) Whether the prosecution has been able to prove beyond reasonable doubt, the charge against the accused, under section 380 of the Indian Penal Code, 1860?
- (ii) To what result?

Point (i):

8. PW1 has deposed as follows: He has a hostel at KPHB, under the name and style Tanuja Ladies hostel. On 13.05.2018, some unknown offender entered into his hostel at KPHB and committed theft of 6 mobile phones from the hostel rooms. He thereby lodged Ex. P1 report and his statement was recorded by the police. He took interim custody of the 6 mobile phones. The witness was not cross-examined by the Ld. Counsel for the defence. Through him Ex. P1, report was marked.


13/02/24

9. PW2 then is the investigating officer. He has deposed about the investigation process. Through him Exs. P2, the FIR, P3, Crime Details Form and Ex. P4, admissible portion of confession-cum-seizure panchnama. The crucial part is that though part of the stolen properties five out of the six mobile phones were recovered from the accused, under Ex. P4, they were not marked. Though the same were given into the interim custody of PW1, no effort was made to actually get at least the details of those mobile phones seized, to show their models and IMEI nos., in order to show that the mobile phones recovered were actually the ones which were stolen.

10. As such, the prosecution has failed to prove its case against the accused, for the offence under section 380 of IPC. Hence, the point is answered against the prosecution and in favour of the accused.

Point (ii):

11. In the result, accused is found not guilty for charge framed against him for the the offence under section 380 of the Indian Penal Code, 1860 and is therefore, acquitted under section 248(1) of the Code of Criminal Procedure, 1973. Sureties and bail bonds if any, shall stand discharged after the expiry of the appeal period. The order dt. 18.06.2018 in CrI.M.P.No.2930 of 2018 granting interim custody of 1. Apple 8 IMEI No. 356704085763933, 2. Moto G4 Plus IMEI No. 8223076688114, 3. Moto E3 Power IMEI No. 358186674965972, 4. MI IMEI No. 866409039749466, 5. Moto G5 IMEI No. 356477086380896 to PW1 shall become absolute after expiry of appeal period.

Typed by me, corrected and pronounced by me in open court on this the 13th day of February 2024.

XV ADDL. METROPOLITAN MAGISTRATE
MEDCHAL-MALKAJGIRI DISTRICT
AT KUKATPAHAL

:: Appendix of evidence::

APPENDIX OF EVIDENCE

Witnesses examined for

Prosecution:		Defence:
PW1	: Sri P. Laxmi Narayana	None
PW2	: Sri Ch. Harishankar Goud/ Investigating Officer	

::Exhibits marked for::

Prosecution:		Defence:
Ex.P1	: Report	None
Ex.P2	: FIR	
Ex.P3	: Crime Details Form	
Ex. P4	: Admissible portion of the confession-cum-seizure panchnama	

::Material objects marked for::

-NIL-

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