

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS
:AT: PEDDAPALLI.

PRESENT:- Sri K. Balachander,
Judicial Magistrate of First Class,
Peddapalli.

Tuesday, the 5th day of November, 2019

C.C.No.346 of 2019

Between:-

The State through Sub Inspector of Police,
PS Dharmaram (Cr.No.52/2019)

...Complainant.

And

Gunti Sravan S/o Sadaiah, age: 27 years, caste:Uppara/
Kapu, R/o. Shanagonda village of Odela mandal.

...Accused.

This case is coming before me for final hearing in the presence of APP for the State and Sri B. Santhosh, Advocate for the accused, having been heard and having stood over for consideration, the Court delivered the following:-

:: J U D G M E N T ::

The Sub Inspector of Police, PS Dharmaram has filed the charge sheet against the accused for the offence punishable U/Sec.379 of IPC in Cr.No.52/2019.

2. The brief facts of the prosecution story are as follows:

The LW1 is working as GVPR Engineers Ltd. Site Engineer, the LW2 is watch man, on 14.03.2019 at night hours the accused have committed theft of (1) Copper Cable, (2) 2 Core Cable, (3) 4 Core Cable, (4) 16 Core Cable, (5) Transform lifting Jack and some other hardware parts from 400 KV, Electrical Sub Station, Tunnel, Medaram outskirts all is W/Rs.10,000/- and decamped with stolen property, later the accused was apprehended by the LW9 and recorded confession and seizer panchanama in the presence of panchas/LWs3 and 4. Hence, the charge.

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3. The case was taken cognizance for the offence punishable U/Sec.379 of IPC against the accused. On appearance of the accused, the copies of the charge sheet and other documents were furnished to them as contemplated U/Sec.207 of Cr.P.C. Accused has been examined U/Sec.239 Cr.P.C and charge under Sec.379 of IPC framed against him, read over to him in Telugu, for which he denied the said allegations, pleaded not guilty and claimed to be tried.

4. During the course of trial to prove its case, the prosecution has examined PWs1 and 2 and got marked Exs.P1 and P2.

5. After closure of the prosecution evidence, accused has examined U/Sec.313 of Cr.P.C, with the incriminating material available against the accused in the evidence of prosecution witnesses, for which he denied and reported no defence evidence.

6. Heard both sides.

7. Now the points for determination is:-

Whether the prosecution has been able to establish the guilt of the accused for the offence punishable U/Sec.379 of IPC beyond all reasonable doubt?

POINT:

8. Whereas PW1, who is watch man, he categorically deposed that he has discharging duty as security guard at electricity sub station of Dharmaram, he does not know the date, but in the month of March, 2008 at about 3.30 AM, some unknown offender has committed theft of electric cable wire and other articles the same was reported to their manager, except this he does not know anything about the facts of this case. Then he was declared as hostile by the prosecution.

9. Whereas PW2, who is panch witness for confession panchanama he categorically deposed that he does not know anything about the facts of this case, police never called him at any where and prepared confessional panchanama of accused in his presence and nothing was seized in his presence but police obtained his signature on scribed paper but nothing was read over and explained the contents of it to him. Then, he was declared as hostile by the prosecution.

10. As could be seen the evidence of PW1, it reveals that in the month of March, 2008 at about 3.30 AM some unknown offender has committed theft of electric cable wire and other articles the same was reported to their manager, except this he did not depose anything about the case, from this nothing was elicited about the alleged offence was done by the accused, he deposed that some unknown offender committed theft of electric cable wire and other articles only. He was declared as hostile by the prosecution, there is no other evidence against the accused as the alleged incident was done by the accused, as such the accused is entitled for acquittal.

11. This court was passed conditional orders on 27.09.2019 to produce the witness LWs1, 3, 4, 6 to 10 i.e., LW1/Putta Maheshwar Reddy, LW3/Gadipalli Anjaiah, LW4/Reddymalla Komuraiah, LW6/Bachala Shankar, LW7/Nallala Shankaraiah, LW8/Rajarapu Rayamallu, LW9/T. Sathyanarayana, who arrested the accused and LW10/K. Prem Kumar. Even after the conditional order the police did not produce the witness to examine. This case shall be disposed off on priority basis. In-spite of several adjournments, passed a conditional orders as finally, has a last chance, in-spite of its prosecution did not shown any interest for production of the above said witnesses. It is

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clearly shows that pronounced negligence on the part of police concerned and prosecution. This court is not having any other alternative steps for getting the presence of the above said witnesses except closer of their evidences. Accordingly the evidences of LWs1, 3, 4, 6 to 10 are closed by this court on 25.10.2019.

12. As discussed above supra, the prosecution is miserably failed to prove the guilty of the accused for the offence u/sec.379 of IPC beyond all reasonable doubt, as such he is entitled for acquittal.

13. **In the result**, the accused is found not guilty for the offence U/Sec.379 IPC and they are acquitted U/s.248(1) Cr.P.C.

The Superintendent, Central Prison, Warangal is hereby directed to release the accused forthwith from your custody, if he is not required in any other case or cases.

Dictated to the Stenographer, directly on computer, after corrections, pronounced by me in the open Court on this the 5th day of November, 2019.

Judl. Magistrate of First Class,
Peddapalli

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR THE PROSECUTION:

PW1 D. Rama Swamy
PW2 B. Narsimha

FOR THE DEFENCE:

- None -

EXHIBITS MARKED

FOR THE PROSECUTION:

Ex.P1 - Sec.161 Cr.P.C. statement of PW1.
Ex.P2 - Signature of PW2 on Confession panchanama

FOR THE DEFENCE:

- Nil -

M.Os. Marked

-Nil-

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