

IN THE COURT OF THE JUDICIAL MAGISTRATE No. II AT SALEM

Present: J. DHINESH KUMARAN *B.A, B.L., (Hons.)*
Judicial Magistrate-II, Salem

Friday, the 11th day of November, 2022

C.C.No.1021 of 2022
in
Crime No.439 of 2022
(On the file of Pallapatty Police Station)

CNR No.TNSA04-011105-2022

State rep by its
Sub Inspector of Police
Pallapatty Police Station,
Salem District.
(Crime No.439 of 2022)

...Complainant

Vs.

RAMESH (M/49 years)
S/o. Manoharan
No.22C, Sengam,
Thiurvannamalai

...Accused

<i>Statement as per Rule 106 of the Criminal Rules of Practice, 2019</i>		
1.	Serial Number	C.C.No.1021 of 2022
2.	Name of the Police Station and Crime Number	Pallapatty Police Station, Salem District. (Crime No.439 of 2022)
3.	Name of the Accused	Ramesh
4.	Father's name	Manoharan
5.	Occupation	Labourer
6.	Residence	No.22C, Sengam, Thiruvannamalai District.
7.	Age	49 years
8.	Date of Occurrence	12.09.2022
9.	Date of Complaint	12.09.2022
10.	Date of Apprehension	12.09.2022
11.	Date of Release on bail	Detained in prison- Not released on bail till date
12.	Date of Commitment	Not Applicable
13.	Date of Commencement of Trial (The date of furnishing of documents u/s.207, Cr.P.C.)	11.11.2022
14.	Closure of Trial	Accused pleaded guilty of charge; hence, judgement pronounced on 11.11.2022.

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15.	Sentence or Order	The accused Ramesh S/o. Manoharan is CONVICTED of the offence u/s.379 of the Indian Penal Code, 1860. The accused to undergo a simple imprisonment for a term of 2 [Two] months. The period of incarceration of the accused in the prison from 12.09.2022 to 11.11.2022 shall be set off against the sentence of imprisonment imposed in the present judgement in accordance with section 428 of the Code.
16.	Service of copy of judgement or finding on accused	Yes. Free copy furnished to the accused as per section 363 of the Code on 11.11.2022
17.	Explanation of delay	No unreasonable delay on the part of this Court.

The case was taken on file on 08.11.2022. The complainant was represented by the learned Assistant Public Prosecutor and the accused appeared for himself. Having heard both sides, perused the records and having stood over the same till this date, this Court delivers the following:

JUDGEMENT

1. Case of the prosecution

The de-facto complainant in the case is Rajendhiran D/o.Nagaraj. The case of the prosecution is that on 12.09.2022 at about 11:00 AM, the de-facto complainant put his Vivo Mobile phone on charge in his footwear shop and looking after his work. At that time, the accused came there and took away the mobile phone of the defacto complainant from his shop. In relation to the theft of the mobile phone, the de-facto complainant lodged a complaint with the Pallapatty police and FIR in Crime No. 439 of 2022 was registered on 12.09.2022.

Thereafter, investigation into the case was conducted by the complainant. The stolen mobile phone was recovered from the accused. The accused was arrested and remanded to judicial custody on 12.09.2022. Since then, the accused is in judicial custody in this case. On completion of investigation, the final report dated 21.09.2022 was laid out by the complainant against the accused for offence u/s.379 of the Indian Penal Code, 1860.

2. Furnishing of copies u/s. 207, Cr.P.C., to the accused

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Subsequent to the filing of the final report, upon production of the accused, copy of the final report and the documents were furnished to the accused in compliance of section 207 of the Code of Criminal Procedure, 1973 (“Code”) on 11.11.2022

3. Substance of accusation and questioning

After furnishing the copies to the accused, on perusal of the records and upon consideration of the same, this Court was of the opinion that there are grounds for presuming that the accused had committed the offence. Hence, charge u/s. 379, IPC was framed in writing against the accused in accordance with section 240 of the Code.

Thereafter, the charge was read out and explained to the accused as per section 240(2) of the Code. The accused was asked whether he pleads guilty of the offence charged or claims to be tried. At the time of the questioning, the accused pleaded guilty of the charge against him and requested the Court to grant him least sentence. He also made a written representation to this effect. The plea of the accused was recorded and was signed by him.

4. Conviction on plea of guilty

Accused pleaded guilty of the charge against him.

In **State of Maharashtra vs. Sukhdeo Singh (1992) 3 SCC 700**, the Hon’ble Supreme Court while dealing with the topic of conviction on plea of guilty held as follows:

“The plea of guilt tantamounts to an admission of all the facts constituting the offence. It is, therefore, essential that before accepting and acting on the plea the Judge must feel satisfied that the accused admits facts or ingredients constituting the offence. The plea of the accused must, therefore, be clean, unambiguous and unqualified and the Court must be satisfied that he has understood the nature of the allegations made against him and admits them.”

This Court took into consideration all the procedural safeguards and directives enumerated by the Hon’ble Supreme Court in the above case before accepting the plea of guilt of the accused in the present case. The accused was explained in detailed the facts constituting the alleged offence and consequences of pleading guilty of commission of offence. Upon consideration of plea of guilt of the accused, the final report filed by the complainant after investigation and documents such as complaint, FIR, seizure mahazar, Form-91, statement of witnesses, confession statement, observation mahazar and rough sketch enclosed therewith, this Court is of the view that the accused has committed the offences u/s. 379, IPC, 1860 in the manner alleged by the prosecution and is

liable to be convicted for the said offence as per section 241 of the Code. In view of the plea of guilt by the accused, trial in the case is not necessitated.

The accused, Ramesh S/o. Manoharan is CONVICTED of the offence u/s.379 of the Indian Penal Code, 1860.

5. Punishment & Sentence

Having convicted the accused of the offence u/s.379 of the Indian Penal Code, 1860; the accused was heard on the sentence in accordance with section 248(2) of the Code. The accused stated that he was remanded in the case on 12.09.2022 and since then he has been languishing in the prison. He stated that he hails from a poor family and prayed that this Court may award him least sentence and to also set off the period of imprisonment already undergone by him as an undertrial against the sentence to be awarded by this Court.

Upon consideration of the nature of the crime, the facts and circumstances of the case, the social status and plea of the accused to award lesser sentence, this Court sentences **the accused to undergo a simple imprisonment for a term of 2 [Two] months. The period of incarceration of the accused in the prison from 12.09.2022 to 11.11.2022 shall be set off** against the sentence of imprisonment imposed in the present judgement in accordance with section 428 of the Code.

6. Case Property

The Case Property i.e., VIVO Mobile Phone in C.P.No.250 of 2022 shall be handed over to the de-facto complainant/owner of the property. The bonds executed by the owner of property and sureties for interim custody of the property are cancelled.

Directly typed by me on my personal laptop, corrected and pronounced by me in Open Court on this 11th day of November, 2022.

Sd/- J. DHINESH KUMARAN
Judicial Magistrate-II, Salem

7. List of Witnesses and Exhibits

- i. List of Prosecution Witnesses, Exhibits and Material Objects: Nil
- ii. List of Defence Witnesses, Exhibits and Material Objects: Nil

Sd/-J. DHINESH KUMARAN
Judicial Magistrate-II, Salem

Note:

- i. A copy of this judgement was given to the accused free of cost as per section 363 of the Code.
- ii. A copy of the judgement was furnished to the learned APP and complainant/police were informed about the judgement in the case.

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