

IN THE COURT OF JUNIOR CIVIL JUDGE-CUM-JUDICIAL MAGISTRATE OF FIRST CLASS: AT NIDMANOOR

PRESENT: SMT T. SWAPNA
Junior Civil Judge-Cum-Judicial
Magistrate of First Class, Nidmanoor

(Date this the 11th Day of December, 2023)

C.C.No.579 OF 2022

Between:

The State of Telangana through
S.H.O. of P.S. Vijayapuri (T).

.....Complainant

A N D

- A1 Beesupogu Samson, S/o.Mariyadas, Age:27 years, Occ:Driver, R/o.Brahmanapalli village, Peduguraalla Mandal, Palnadu District of AP state.
- A2 Shaik Hussainbee @ Bujji, S/o.Nabeesa, Age:34 years, Caste:Muslim, Occ:Taylor, R/o.Numbersaida Bazaar, Piduguralla town of Palnadu district.
- A3 Anumula Koteswar Rao @ Koti, S/o.Mauthyalu, Age:40 years, Caste:Vyshya, Occ:Gumasta at Gold shop, R/o.4-80, Sivalayam street, Piduguralla town of Palnadu district.

...Accused

This case is coming before me for final hearing in the presence of learned APP for the State and of Smt A.Vani, Legal aid counsel for A1 and of Sri R.Sateesh, learned counsel for A2 and A3 upon perusing the material papers on record, on hearing both sides and having stood over for consideration till this day, this Court delivered the following.

J U D G M E N T

1. The Sub-Inspector of Police P.S. Vijayapuri (T) filed charge

sheet against A1 to A3 in Crime No.46 of 2022 for the offence punishable Under Section 457, 380 and 411 of IPC.

2. The case of the police as in charge sheet is as follows:-

That LW1 was doing kiranam business in their house at Pylon colony and was eking her livelihood. On 21.08.2022 she closed her kirana shop and slept in their house along with her children. Later when she woke up on 22.08.2022 she found that some unknown offenders entered in to their house broke the lock and committed theft of 2.5 tulas gold ornaments, mobile and cash of Rs.35,000/-. On this LW1 lodged complaint. Basing on the above complaint, S.I. of Police, Vijayapuri (T), registered a case and after completing investigation filed the charge sheet against A1 to A3 for the offences punishable under Section 457, 380 and 411 of IPC.

3. Cognizance was taken for the offences punishable Under Sections 457, 380 of IPC against A1 to A3.

4. A1 is in jail. On his production before the court he was supplied

with copies as required under 207 of Cr.P.C., On appearance of A2 and A3, copies of documents were furnished to them as contemplated u/Sec.207 of Cr.P.C. A1 to A3 were examined under Sec.239 of Cr.P.C and charges for the offences punishable under Sections 457, 380 of IPC were framed, read over and explained to the accused in Telugu, they denied the offences and claimed to be tried.

5. During the course of trial, the prosecution had examined PW1 to PW6 and got marked Exs.P1 to Ex.P7. PW1 is the complainant. PW2 is circumstantial witness and son of PW1. PW3 and PW4 are panch for scene of offence, PW5 and PW6 are panch for confession cum seizure panchanama of A1 and A3 and PW7 is investigation officer.

6. After closure of the prosecution evidence, A1 is produced from jail, A2 and A3 were present and A1 to A3 were examined under Sec.313 Cr.P.C and the incriminating evidence is read over and explained to accused in Telugu, for which they denied the same and reported no defence evidence.

7. Both Prosecution and defence counsel submitted their arguments.

8. Now the point for consideration is:-

"Whether the prosecution has proved the guilt of A1 to A3 beyond all reasonable doubt for the offence under Section 457, 380 of IPC ?

9. **POINT:**

PW1 and PW2 deposed that on 22.08.2022 in the morning hours they noticed that their beerva was broke open and 2 tulas of neckless ear rings, cellphone and cash of Rs.30,000/- was committed theft.

10. PW3 and PW4 deposed that police conducted scene of offence panchanama and where they noticed broken beerva. So, from the above evidence, it is clear that theft was committed at the house of PW1 and on that police conducted scene of offence panchanama.

11. It is the evidence of PW7 investigation officer that on receiving the complaint/Ex.P1 he registered an FIR under Ex.P8 and then conducted scene of offence panchanama. LW9 along with his team

conducted comparison test available in their data and found that the finger prints lifted from the scene belongs to A1. On 28.08.2022 he arrested A1 in his house at Piduguralla AP state and then conducted confession panchanama of A1 in the presence of PW5 and PW6. Basing on the confession panchanama of A1 in which he stated that after committing theft of gold and phone he sold the same to A3 with the help of A2, the investigation officer went to the residence of A3 and recorded his confession panchanama.

12. So, the complete case is based on fingerprints report and confession panchanama of A1 and A3. It is the evidence of investigation officer that he conducted confession cum seizure panchanama at the residence of A1 and A3. Ex.P12 and Ex.P13 confession cum seizure panchanama of A1 and A3 also mentioned that confession was recorded at Piduguralla. But it is the evidence of PW5 and PW6 that police obtained their signatures on some papers and the panch witnesses PW5 and PW6 are the residents of Thirumalagiri but not Piduguralla, as such, this court also raises a doubt with regard to

confession cum seizure panchanama conducted by investigation officer in the presence of PW5 and PW6.

13. The other dossier relied by prosecution to prove that A1 committed theft of the articles is fingerprint report Ex.P11. Except this report there is no other evidence available proving that accused No.1 committed theft of the alleged property. In this circumstances this court would like to rely on the decisions of Hon'ble Supreme Court where the evidenciary value of fingerprints is discussed -

- i. ***"Gurcharan Singh vs State of Punjab AIR 1963 SC 340"*** in which it was held that basing conviction on the single testimony of fingerprint expert is not possible. Mere presence of the fingerprint of the accused is not sufficient.
- ii. ***"Mohan Lal vs Ajit Singh AIR 1978 SC 1188"*** where fingerprint are smuggled it is for the experience and skilled fingerprint expert to say whether a mark is usable as fingerprint evidence, only he can opines whether similarity can be establish on eight or even less identical characteristic.

14. Here in the instant case also except fingerprint report there is no other evidence showing that A1 committed theft of alleged property and the fingerprint expert is also not examined by the prosecution for the best reasons known to them, as such, prosecution failed to prove the guilt of A1 for the offence under Section 457 and 380 of IPC.

15. It is the evidence of investigation officer that A1 sold the property that he committed theft to A3 with the help of A2. As discussed above prosecution could not prove without any reasonable doubt the confession cum seizure panchanama of A1 and A3. As such, there is no iota of evidence proving the guilt of A2 and A3 for the offence levelled against them.

16. IN THE RESULT, A1 to A3 are found not guilty for the offence under Section 457, 380 of IPC and accordingly, they are acquitted under Section 248 (1) of Cr.P.C. The bail bonds of the accused shall remain in force for a period of six months as envisaged under Section

437-A Cr.P.C. The property vide CP.No.228/2022 was given to complainant/PW1 towards interim custody as per the order in Crl.MP.No.392/2023. Said order of interim custody shall become absolute after appeal period.

Typed to my dictation by Stenographer, corrected and pronounced by me in open Court on this the 11th day of December, 2023.

Junior Civil Judge-Cum-Judicial
Magistrate of First Class,
Nidmanoor

APPENDIX OF EVIDENCE
WITNESSES EXAMINED FOR

PROSECUTION

PW1 : Ramavath Chitti
PW2 : Ramavath Naveen
PW3 : Banavath Valya
PW4 : Shankaraiah
PW5 : Ramavath Venkatesh
PW6 : B.Pandu
PW7 : B.Rambabu

DEFENSE

-None-

EXHIBITS MARKED FOR

PROSECUTION

Ex.P1 : Complaint
Ex.P2: Photographs showing the above recovered articles
Ex.P3: Crime detail form
Ex.P4: Signature of PW5 on confession cum seizure panchanama of A1
Ex.P5: Signature of PW5 on confession cum seizure panchanama of A3
Ex.P6: Signature of PW6 on confession cum seizure panchanama of A1
Ex.P7: Signature of PW6 on confession cum seizure panchanama of A3

DEFENSE

-Nil-

Ex.P8: FIR

Ex.P9: Scene of offence panchanama

Ex.P10: Rough sketch

Ex.P11: Report pertaining to finger print unit CID Rachakonda

Ex.P12: Confession panchanama of A1

MATERIAL OBJECTS MARKED

- NIL -

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