

**IN THE COURT OF THE SPL JUDL MAGISTRATE OF I CLASS FOR
PROHIBITION AND EXCISE OFFENCES, KADAPA**

**Present: Smt. Hema Sravanthi Janakiram,
Spl. Judl. Magistrate of I Class for
Prohibition and Excise Offences, Kadapa.**

Friday, the 9th day of September, 2022.

C.C.No.465/2020

Between:

State represented by the
Sub Inspector of Police,
C.K.Dinne P.S.,

...Complainant

And

1. Palagiri Kulai Basha, aged about 26 years, S/o. Kulayappa, D.No. 1/216, Ajad Nagar, C.K.Dinne Mandal.
2. Karamula Reddy Raja Chari, aged about 24 years, S/o. Chinna Reddaiah, Resident of Azad Nagar, C.K.Dinne Mandal.
3. Nagadasari Mahesh, aged about 26 years, S/o. Jayanna, Aswardhagaripalli Village, C.K.Dinne Mandal.

...Accused Nos. 1 to 3

This case came before me on 06.09.2022 for final hearing in the presence of the Sri N.Srikanth, Learned Assistant Public Prosecutor for the prosecution and of Sri K.Venu Gopal, Advocate for accused nos. 1 to 3 upon hearing on both sides, 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, C.K.Dinne P.S., has filed

dt. 09.09.2022

Spl. JFCM for Proh. & Excise Offences, Kadapa

Charge sheet in Cr.No.171/2020 under section 379 or 411 of Indian Penal Code 1860 (for brevity herein after referred as "IPC ").

2. The case of the prosecution in nut shell is that

Lw.1/Defacto complainant working in the Kadapa Hundai Car Showroom. On 21.05.2020 at about 9.00 p.m., L.W.1 parked his bike i.e., Honda Shine Motorcycle bearing No. AP-04 AC-8506 in front of his house at Cherlopalli village and failed to side lock the vehicle. On 22.05.2020, in the morning hours around 5.00 a.m, he noticed that some unknown offenders has committed theft of his motorcycle. Lw.1 searched in the surrounding places for the offenders and could not find anyone. As such, he has lodged complaint to C.K.Dinne P.S which was registered as Cr.No.171/2020 u/sec.379 of IPC by LW.6-S.I. of police, C.K.Dinne P.S. During the course of his investigation L.W.6 has examined L.Ws.1 and 2, recorded their statements u/sec.161 Cr.P.C and prepared rough sketch of the scene. On 01.06.2020, at about 1.00 p.m., L.W.6 has arrested accused nos. 1 and 2 near Jayaraj Gardens, on Kadapa outer ring road, C.K.Dinne Mandal and recovered the stolen property i.e., Honda Shine Motorcycle no. AP-04 AC-8506 from their possession under the cover of confession cum seizure panchanama in the presence of L.Ws. 3 and 4 -Shaik Sadiq Basha, VRO and Palem Sanjeeva Rayudu, VRA. He also produced accused nos. 1 and 2 before this court. On 21.08.2020 L.W.5 has produced

dt. 09.09.2022

Spl. JFCM for Proh. & Excise Offences, Kadapa

accused no.3 before this court on execution of PT Warrant. L.W6 has returned the motorcycle to L.W.2 ie., registered owner in pursuance of orders of this court. After completion of his investigation L.W.6 filed charge sheet. Hence the charge

3. Cognizance was taken on file against the accused nos. 1 to 3 for the offence Under Section.379 or 411 of IPC.

4. On appearance of the Accused nos. 1 to 3, copies of case documents were furnished to them as required under Section 207 of Criminal Procedure code, 1972 (herein after referred to as Cr.P.C., for brevity).

5. Accused nos. 1 to 3 were examined under Section 239 of Cr.P.C., and the charge under Section 379 or 411 of IPC was framed, read over and explained to them in Telugu, for which, they pleaded not guilty and claimed to be tried.

6. To prove its case, the prosecution has examined P.Ws.1 to 5 and got marked Exs.P1 to P6 and M.O.1. Learned Assistant Public Prosecutor has given up the evidence of LW-1.

Evidence let in by prosecution:

- Ex.P1 – Complaint lodged by L.W.1
- Ex.P2 – Signature of P.W.2 in Panchanama
- Ex.P3 – First Information Report
- Ex.P.4 – Rough Sketch

- Ex.P.5 – Confession arrest cum seizure panchanama
- Ex.P.6- Signature of P.W.5 in panchanama
- M.O.1 – Hero Honda Shine two wheeler bearing registration No. AP-04 AC-8506.

7. After completion of the prosecution side evidence, the accused nos. 1 to 3 were examined under Section 313 Cr.P.C, explaining the incriminating circumstances appearing against them in oral and documentary evidence, they denied the evidence and reported no defence evidence.

8. Heard the arguments of both sides.

9. Perused the record.

10. Now the point for determination is

“Whether the prosecution is fruitful in establishing the guilt of the accused nos. 1 to 3 with Law for the offence u/sec.379 or 411 of Indian Penal Code beyond all reasonable doubt?”

Point:

11. In order to substantiate the allegations leveled against the accused nos. 1 to 3, the prosecution examined P.Ws.1 to 5. P.W.1- L.Sreenivasula Reddy father of defacto complainant/owner of M.O.1, has deposed that on 21.01.2020 LW1 has parked M.O.1 – Hero Honda Shine two Wheeler bearing registration number AP04 AC-

8506 in front of their house. On the next day morning L.W.1 found that the vehicle was missing and they have searched for the vehicle here and there but could not find. They concluded that the vehicle was stolen by some unknown offenders. P.W.1 has identify the signature of LW1 in complaint vide Ex.P.1. He further deposed that M.O.1 was given in interim custody to him. In his cross examination except the fact that P.W.1 did not lodge any complaint even though he is owner of M.O.1 nothing worthy was elicited.

12. P.Ws.2 and 5 namely S.Sadiq Basha, VRO and P.Sanjeeva Raidu VRA are alleged to be punch witnesses present at the time of arrest of accused nos.1 and 2 and seizure of M.O.1 from their possession under the cover of confession, arrest cum seizure panchanama has turned hostile to the case of the prosecution deposing that police has obtained their signatures at police station and they did not witness anything.

13. P.W.3- N.Konda Reddy, ASI Of Police, deposed in chief about producing accused no.3 before this court on execution of PT Warrant.

14. P.W.4 – N.Raja Rajeswar Reddy, the then SI of Police, deposed in chief about receiving Ex.P1 from L.W.1, registration **Ex.P3** – FIR, examining material witnesses and recording their statements, preparing Ex.P.4 – Rough Sketch of the scene and

also about arrest of accused nos. 1 and 2 in the presence of P.Ws. 2 and 5 at Jayaraj Gardens and seizure of M.O.1 from their possession under Ex.P.5 - Confession, arrest cum seizure panchanama. He further deposed about handing over M.O.1 to P.W.1 on court orders. In his cross examination it is elicited that Ex.P1 does not contain date of lodging the complaint.

15. On thorough perusal of entire evidence available on record, none of the witnesses deposed that they have seen the accused persons at the time of commission of offence and identified them before the court. Hence the prosecution failed in establishing the identity of accused persons. Though P.W.1 testified about commission of offence undisputedly he did not see the accused persons at the time of commission of offence. Though P.Ws.2 & 5 were cited as punch witnesses present at the time of arrest of accused nos.1 and 2 and seizure of M.O.1, unfortunately they did not speak so and their evidence is that police has obtained their signatures at police station. Hence, P.Ws.2 and 5 did not support the case of the prosecution with regard to arrest of accused nos. 1 and 2 and recovery of M.O.1 from their possession. Further the arrest of accused no.3 on execution of PT Warrant is based on the alleged confession made by accused nos.1 and 2 in the presence of P.Ws. 2 and 5. As discussed supra the said confession was not affirmed by

P.Ws. 2 and 5. Hence, the prosecution has miserably failed to establish the guilt of the accused persons.

16. **IN THE RESULT,** Accused nos. 1 to 3 are found not guilty of the offence punishable under Section under Section 379 or 411 of IPC and thereby, they are acquitted under Section 248 (1) Cr.P.C., of the said offence. Bail bonds of accused nos. 1 to 3 shall stand canceled after six months from the date of this judgment. M.O.1 is Hero Honda Shine two wheeler bearing registration No. AP-04 AC-8506 i.e., returned to the owner as per the Crl.M.P.No.896/2020 is made absolute after lapse of appeal time.

Typed to my dictation by the Personal Assistant, corrected and pronounced by me in open Court on this the 9th day of September, 2022.

**Spl. Judicial Magistrate of I Class
for prohibition and Excise offences, Kadapa.**

APPENDIX OF EVIDENCE
WITNESSES EXAMINED ON BEHALF OF

PROSECUTION:

P.W.1: L.Sreenivasula Reddy,
P.W.2: S.Sadiq Basha
P.W.3: N.Konda Reddy, ASI of Police C.K.Dinne P.S.
P.W.4: N.Raja Rajeswar Reddy, S.I of Police, C.K.Dinne P.S.
P.W.5: P.Sanjeevarayudu, VRA

DEFENCE:

-None-

dt. 09.09.2022

Spl. JFCM for Proh. & Excise Offences, Kadapa

DOCUMENTS MARKED FOR PROSECUTION

Ex.P1 – Complaint lodged by L.W.1

Ex.P2 – Signature of P.W.2 in Panchanama

Ex.P3 – First Information Report

Ex.P.4 – Rough Sketch

Ex.P.5 – Confession arrest cum seizure panchanama

Ex.P.6- Signature of P.W.5 in panchanama

DOCUMENTS MARKED FOR DEFENCE

-Nil-

MATERIAL OBJECTS

M.O.1 is Hero Honda Shine two wheeler bearing No. AP-04 AC-8506

Spl. JFCM,
for P & E, KDP

dt. 09.09.2022

Spl. JFCM for Proh. & Excise Offences, Kadapa

CALENDAR AND JUDGMENT

District : KADAPA

Calendar and Judgment tried by **Smt. Hema Sravanthi Janakiram**
 Spl. Judicial First Class Magistrate
 for Prohibition and Excise offences, Kadapa

Date of						
Offence	Report	Apprehen- sion of accused	Release on bail	Commence -ment of trial	Close of trial	Judgment
Prior to 21/22- 5-'20	25-05-'20	05-06-'20 (A.1 & A.2) 22-04-'22 (A.3)	15-06-'20 (A.1) 16-06-'20 (A.2) UTP (A.3)	06-05-'22	06-09-'22	09-09-'22

Calendar and Judgment in C.C.No.**465 of 2020** on the file of the
 Special Judl. Magistrate of First Class for Prohibition and Excise
 offences, Kadapa.

Complainant : The **Sub-Inspector of Police, C.K.Dinne P.S.,**
 Cr.No.171/2020

S.No.	Name of the accused with father's name	Age	Calling	Religion	Resident
1.	Palagiri Kulai Basha, S/o. Kulayappa.	26 yrs	-	Islamic	D.No. 1/216, Ajad Nagar, C.K.Dinne Mandal.
2.	Karamula Reddy Raja Chari, S/o. Chinna Reddaiah	24 yrs	-	Hindu	Resident of Azad Nagar, C.K.Dinne Mandal.
3.	Nagadasari Mahesh, S/o. Jayanna,	26 yrs	-	Hindu	Aswardhagaripalli Village, C.K.Dinne Mandal.

Offence : U/ss. 379 or 411 of IPC

Finding : Accused nos. 1 to 3 are found not guilty.

Sentence : Accused nos. 1 to 3 are found not guilty of the offence
 punishable under Section under Section 379 or 411 of IPC and

dt. 09.09.2022

Spl. JFCM for Proh. & Excise Offences, Kadapa

thereby, they are acquitted under Section 248 (1) Cr.P.C., of the said offence. Bail bonds of accused nos.1 to 3 shall stand canceled after six months from the date of this judgment. M.O.1 is Hero Honda Shine two wheeler bearing registration No. AP-04 AC-8506 i.e., returned to the owner as per the CrI.M.P.No.896/2020 is made absolute after lapse of appeal time.

Explanation for the delay : The case is taken on file on 18.09.2020 and posted to 21.09.2020 and numbered as C.C.465/2020. On appearance of accused nos.1 to 3, copies of documents were furnished to them. On 02.05.2022 accused nos.1 to 3 were examined u/s. 239 of Cr.P.C., read over and explained to them in Telugu and that accused nos.1 to 3 pleaded not guilty and claimed to be tried. The prosecution evidence commenced from 06.05.2022 and closed the trial on 01.09.2022. On 05.09.2022 accused nos. 1 to 3 were examined u/s.313 Cr.P.C., Heard both sides on 06.09.2022 judgment is pronounced on this day. Hence, the delay.

Remarks : NIL

**Spl. Judicial Magistrate of I Class
for prohibition and Excise offences,Kadapa.**

Copy submitted to

The Hon'ble 1st Additional District & Sessions Judge, Kadapa. Dis. No.

dt. 09.09.2022

Spl. JFCM for Proh. & Excise Offences, Kadapa