

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS
AT CHINNOOR.

PRESENT: Ms. SHAIK REHANA
Judicial Magistrate of First Class,
Chinnor.

Tuesday the 7th day of February, 2017

CC.No.392 of 2016

Between:-

The State through the Sub-Inspector of Police,
P.S. **Chennur.**

... Complainant

// AND //

Kammagoni Sai Kumar @ Sai Kiran, S/o. Durgaiah, Age. 18 yrs,
Caste Goud, Occ. Coolie, R/o. Nallagonda Pochammawada, Chennur.

.... Accused

This case is coming on 25-01-2017 for final hearing before me in the presence of learned A.P.P. for the State-complainant and of Sri S.Ramesh, Advocate for the accused, having been heard and having stood over for consideration till this day, the Court delivered the following:-

J U D G M E N T

The Sub-Inspector of police Chennur filed charge sheet against the accused in Cr.No.189/2016 of PS Chennur for the offence punishable under section 457, 380 of IPC.

2. The brief facts of the case as per charge sheet are as follows :-

On 21-09-2016 at 1715 hours PW-1 came to police station and lodged a telugu written petition stating that, on 20-09-2016 at 1430 hours he went to Asifabad to attend the 21st day ceremony of his grandson along with his wife by locking the house door. On 21-09-2016 at 0700 hours his son in-law by name Thanniru Ramesh made a phone call to him and informed that, his house door locks were broken, on knowing

that, he came to his house along with his wife and found his front door locks were broken, then he entered in to the house and saw that, three almarah doors were opened, inner articles were scattered here and there, 6 gold rings 1 ½ tulas (Each one ¼ tula) and Three pair silver leg chains- 15 tulas (Each pair 5 tulas) were missing from almarah. Further he stated that un-known persons have entered into his house in the night house by broke opening the door and committed theft of gold and silver ornaments from his house. The total lost property value is Rs. 35,000/- approximately. Basing on the above petition LW10/R.Bansilal registered a case in Cr.No.189 of 2016 under section 457, 380 of IPC, issued FIR to the all concerned and took up investigation. During the course of investigating LW10 rushed to the scene of offence, examined and recorded the statement of PW1 and LW2 to LW4 i.e., Chakinarapu Sarojana, Thanniru Ramesh and Chakinarapu Buchaiah, secured the presence of two mediators LW7/Boge Suresh and PW2 conducted the scene of offence panchanama detailed in CDF. On 20-09-2016, while PW6 conducting vehicle checking at Old bus stand he apprehend three persons then he secured of PW4 and LW5 conducted confession and seizure panchanama in presence of them and seized stolen property from the possession of A1 and juvenile No.1 and Juvenile No.2, then he come back to police station alongwith them and seized property arrested them and send them for judicial remand. Later he got weighed the seized property with the help of PW3. After completion of investigation, he filed charge sheet.

3. This case was taken on file for the offence under section 457, 380 of IPC against the accused and summons were ordered to him.
4. On appearance of the accused, copies of case documents were furnished to him in accordance with section 207 of Cr.PC.
5. The accused was examined under Section 239 of Cr.PC for the allegations in the charge sheet, to which he denied the same. Hence, charge under section 457, 380 of IPC has been framed against the accused, read over and explained to him in his vernacular language, to which he pleaded not guilty and claimed to be tried.
6. During the course of trial, prosecution has examined PW1 to PW6 and got marked Exs.P-1 to P-5.
7. After completion of prosecution side evidence, accused examined under section 313 Cr.PC. explaining the incriminating circumstances appearing against him in the evidence, to which he denied and reported no defence evidence. None were examined and no documents were marked on behalf of the accused.
8. Heard the arguments and perused the material on record.
9. Now the Point for determination is whether the prosecution has proved the guilt of the accused beyond reasonable doubt for the offence punishable under section 457, 380 of IPC.
10. POINT:- The prosecution examined (6) witnesses out of (11)

listed witnesses. PW-1 is the complainant, PW2 is panch witness for CDF, PW3 who weight of case property, PW4 and PW5 are panches confession seizure panchanama and PW6 is investigating officer in this case.

11. The story of prosecution has unfolded testimony of witnesses. The PW1 is complainant in this case he stated that, on 20-9-2016 he along with his wife went to Asifabad to attend one function. On next day morning at 7.00 am his son in law called him and asked whether they came back to their house he replied they are not returned on that he went in side the house and found missing of 6 gold rings and 3 pairs of silver anklets from our almareh immediately he came to his house and observed the house Later he went to police station and lodged a report. ExP1 is report. Previous month he obtained his articles from the Court. MO1 is 6 gold rings. MO2 is 3 pairs of silver anklets. PW3 who weighed the gold ornaments with the instruction of investigation officer, he stated that on 28.9.2016 at 4.00 pm., Chennur police called him to the old bus stand their he weighed the property. PW4 and PW5 are panches for confession and seizure panchanama, they stated that on 28.09.2016 at 3.00 pm., Chennur police called them to old bus stand Chennur their police conducted confession and seizer panchanama in presence of them and also seized stolen property from the possession of all the accused persons. Ex.P3 confession and seizer panchanama. PW5 identified the accused persons before this Court. MO1 is 6 gold rings. MO2 is 3 pairs of silver anklets. PW2 is pancha for scene of offence

panchanama, he stated that on 21.9.2016 at 5.30 pm,. police conducted scene of offence panchanama in presence of him and obtained his signature. Ex.P2 is scene of offence panchanama. PW6 is investigation officer in this case who registered the case examined the witnesses conducted scene of offence panchanama and confession and seizure panchanama in presence panches. Arrested accused and juvenile No.1 and 2 send to accused persons to judicial remand and send juveniles to Hon'ble Juvenile Court at Adilabad.

12. PW4 and PW5 who are panches for confession and seizure panchanama their evidence is very crucial in this case. Hence, this court scrutinized the evidence of PW4 and PW5 very closely. They stated in their chief examination that police seized MO1 and MO2 from the possession of all accused persons. In their cross examination their evidence not suffered any dent and they stated police conducted confession and seizer panchanama in their presence. PW5 identified the accused persons before this Court and MO1 and MO2 marked through PW5 and the MO1 recovered from the possession of accused persons.

13. In this content it is worth mentioning that the some are minor and trivial discrepancies which can't be made the basis of impeachment the credibility of the witnesses since they do not got to the root of the matter and shake the basic version of the witness. Be it noted that such minor contradictions cannot be used to jettison their evidence in it entirety.

14. It is for the accused to satisfactorily explain the possession of all these stolen properties by him. And stolen property were found in the possession of the accused and the accused is either the offender who committed this theft or he is the illegal receiver of this stolen property. Hence I hold that the accused is the receiver of the stolen property having knowledge that it is stolen property and the accused can be punishable for the offence under section 411 of IPC. No case is made out against the accused for the offence under section 457 and 380 of IPC.

15. Hence, considering the facts and circumstances of the case, I therefore found the prosecution has successfully proved the guilt of the accused punishable U/sec. 411 of IPC. The accused is found guilty for the offence U/sec. 411 of IPC under section 222(2) of Cr.PC.

16. **In the result,** the accused is found not guilty for the offence punishable under section 457 and 380 of IPC and thereby he is acquitted for the same under section 248(1) of Cr.PC., accused is found guilty for the offence under section 411 of IPC and he is convicted under section 248(2) Cr.PC. MO-1 and MO-2 which is already given to PW1 made absolute after appeal time.

Dictated to the Steno, transcribed by him and after correction, pronounced by me in the open Court on this the 7th day of February, 2017.

JUDICIAL MAGISTRATE OF I CLASS
CHINNUR.

17. Accused is produced before this Court. When he is questioned on the quantum of sentence to be imposed against him, he pleaded for mercy of the court saying that he have to look after the welfare of his family members.

18. Upon considering the plea of the accused and considering the totality of the case is not desirable to apply the PO Act,. Hence, this case is related to theft. Considering the facts and circumstances of the case, this court feels that the following sentence can be imposed that to meet the ends of justice. Accordingly the accused is sentenced to under go simple imprisonment for a period of (6) months for the offence punishable U/sec.411 of IPC and also sentence to pay a fine of Rs.200/- each (Rupees two hundred only) in default of payment of fine the accused shall under go simple imprisonment for a period of one month.

19. The accused is appraised of their right to appeal against this judgment to the Hon'ble sessions judge at Adilabad. On enquire the accused stated that he have got sufficient means to engage counsel in appeal.

20. The accused in judicial remand from 29-09-2016 to 07-02-2017. The period of judicial remand set aside under section 428 of Cr.PC.

Dictated to the Steno, transcribed by her and after correction, pronounced by me in the open Court on this the 7th day of February, 2017.

JUDICIAL MAGISTRATE OF I CLASS
CHINNUR.

APPENDIX OF EVIDENCE
WITNESS EXAMINED

For the Prosecution

For the Defence

PW-1: Chakinarapu Madhusudhan is complainant of (LW-1) -- NIL --

PW-2: Lakkakula Madhu is the panch witness for CDF of (LW-6)

PW-3: Katla Krishnamurthy weight of case property of (LW-5)

PW-4: Nakka Bheemaiah is panch witness of (LW-8)

PW-5: Naini Venkatesh panch witness of (LW9)

PW-6: B.Chander, SI of police of (LW11)

EXHIBITS MARKED

For Prosecution:

For the defence

Ex.P-1: Report lodged by PW-1

– None --

Ex.P-2: Scene of offence panchanama of PW2

Ex.P-3: Confession and seizure panchanama of PW4

Ex.P-4: FIR of PW6

Ex.P-5: Rough sketch of scene of offence of PW6.

MATERIAL OBJECTS MARKED

MO-1: is 6 gold rings

MO-2: is 3 pairs of silver anklets.

JUDICIAL MAGISTRATE OF I CLASS
CHINNUR.

CALENDER AND JUDGEMENT

IN THE COURT OF THE JUDL MAGISTRATE OF 1st CLASS AT CHINNOOR,

CC. No. 392 of 2016

1.	Date of Offence	21-09-2016
2.	Date of Report/Complaint	21-09-2016
3.	Date of Apprehension of Accused	29-09-2016
4.	Date of Released on Bail	---
5.	Date of Commencing of Trial	02-12-2016
6.	Date of Closure of Trial	17-01-2017
7.	Date of Sentence/Order	07-02-2017
8.	Explanation for Delay	---
9.	Remarks	---
10.	Name of the Complainant	The State through the Sub-Inspector of Police, P.S. Chennur .
11.	Name of the Accused	Kammagoni Sai Kumar @ Sai Kiran, S/o. Durgaiah, Age. 18 yrs, Caste Goud, Occ. Coolie, R/o. Nallagonda Pochammawada, Chennur.
12.	Offence Under Section(s)	457 and 380 of IPC
13.	Finding of the Court	Guilty
14.	Sentence/Order	<u>In the result</u> , the accused is found not guilty for the offence punishable under section 457 and 380 IPC and thereby he is acquitted for the same under section 248(1) of Cr.PC. accused is found guilty for the offence under section 411 of IPC and he is convicted under section 248(2) Cr.PC. MO-1 and MO-2 which is already given to PW-1 made absolute after appeal time.
	To The Hon'ble I Addl.Sessions Judge, Adilabad. Lr.Dis.No. /2017 Dated -02-2017	

JUDL.MAGISTRATE OF I CLASS
CHENNUR.

