

IN THE COURT OF THE METROPOLITAN SESSIONS JUDGE:HYDERABAD

Dated this the 18th day of December, 2014

Present: Smt. T.Rajani,
Metropolitan Sessions Judge,
Hyderabad.

CRIMINAL APPEAL NO. 1124/2014

From what court this appeal is preferred:	The VIII Addl. Chief Metropolitan Magistrate, Hyderabad.
Case Number in that court	CC. No. 910/2013
Criminal Appeal Number	Crl.Appeal No. 1124 of 2014
Name and description of the Appellant	Hyder Ali Razvi @ Hyder, S/o Late Hamed Ali Razvi, age: 26 years, Occ: Wall Painter, R/o H.No. 17-3-434/34, Ganga Nagar, Yakutpura, Hyderabad.
Name and description of the Respondent	The State of Telangana, through PS. Mirchowk, Hyderabad.
The law and sentence under which the Appellant is convicted before the lower court	The Appellant, on his voluntary plea of guilt before jail Adalath on 2-8-2014, he is found guilty for the offence punishable U/sec. 454 and 380 IPC, and was convicted u/s 244 Cr.P.C and sentenced to undergo S.I/R.I for a period of one year each for the offences U/s 454 and 380 IPC and to pay a fine of Rs. 50/- each for the said offences (Total fine amount of Rs. 100/-) in default of payment of fine to suffer S.I for one month each and the sentences for the both the offences shall run concurrently along with sentences in CC.No. 912/2013, 211/2013, 749/2013, 21/2014, 913/2013, 217/2014, 909/2013, 998/2007 and 911/2013 and the remand period from 15-03-2014 to 02-08-2014 shall be set off, U/s 428 of Cr.PC.
Whether confirmed, modified or reversed and if modified, the modification	In the result, the appeal is dismissed. The Judgment of the trial court in CC.No. 910/2013 dated 2-8-2014 is hereby confirmed. But however, this court is inclined to specify that the sentence of imprisonment awarded by the lower court shall be SIMPLE. The rest of the Judgment is kept intact.

DATE or ON WHICH

Presentation	19-11-2014
Filing	19-11-2014
Notice issued to Respondent to appear	19-11-2014
Whether on bail, if so, the bail bond	--
Respondent order to appear	10-12-2014
Hearing	17-12-2014
Judgment	18-12-2014

This Criminal Appeal is coming on for hearing before me upon perusing the petition of appeal and record of evidence and upon considering the arguments of M/s N. Sujatha, Advocates for the Appellant, and of Sri. V. Bala Buchaiah, Public Prosecutor for the Respondent, this court made the following:

J U D G M E N T

1. This appeal is preferred against the judgment of the VIII Addl. Chief Metropolitan Magistrate, Hyderabad, in C.C.No.910/2013, dt:2.8.2014, by virtue of which the lower court by accepting the admission of the accused no.1 made in the Jail Adalat, sentenced him to undergo imprisonment for a period of one year each and to pay a fine of Rs.50/- each and in default of payment of fine to undergo simple imprisonment for a period of one month each for the offences punishable under sections 454 and 380 IPC.

2. The facts of the case can be briefly stated, which as per the charge sheet are that on 15.6.2013, the complainant lodged a report stating that on the the same day, during his absence at his house, some unknown culprits entered into his house, by opening the door lock and broke open the inner locks of drawer and committed theft of gold chura. Based on a report given by the complainant, case was registered in Cr.No.113/2013 under sections 454 and 380 IPC, and after concluding the investigation, the charge sheet was filed for the same offences.

3. During the Jail Adalat, the accused who is A1 in the crime, admitted the guilt and the lower court passed the impugned judgment.

4. Against the said judgment, this appeal is preferred on the following grounds:- The lower court failed to observe that the defacto-complainant did not whisper anything about the accused. The lower court ought to have seen that the accused is working as wall painter and does not have any necessity to commit the offence. The lower court failed to see that the police failed to establish the guilt of the accused. The accused did not have legal knowledge and pleaded guilty under a panic or a compulsion. Hence, the judgment of the lower court is not sustainable.

5. Now, the points that arise for determination before this court are:-

1)Whether the judgment of the lower court is sustainable.

2)To what relief.

6. For the sake of convenience, the parties would be referred to as arrayed in the lower court.

POINT NO.1:-

7. The contention of the prosecution that appeal is not maintainable against the impugned judgment, as it is recorded in Lok

Adalat cannot be sustained, as the judgment does not reveal that it is rendered under the Legal Services Authority Act. It is only rendered during the Jail Adalat, which does not imply that it is rendered under the Legal Services Authority Act. But, however, the plea of the accused which is in a printed proforma, shows that the plea of guilty appeared to be voluntary, as per the assessment of the Magistrate. Hence, when the accused is found to have voluntarily admitted the offence, he cannot now, in an appeal, plead contrary. But, however, the accused has a right to prefer an appeal against the adequacy of sentence. The judgment shows that the sentence was recorded in a mechanical manner, without indicating whether it is a simple imprisonment or rigorous imprisonment.

8. This court by considering that this accused is involved in the offences punishable under sections 454 and 380 IPC, is not inclined to reduce the sentence of imprisonment, but as there is no clarity with regard to the nature of imprisonment, and as the enhancement of imprisonment cannot be done in this appeal, this court is inclined to specify that the sentence of imprisonment awarded by the lower court shall be 'simple'. The rest of the judgment is kept in tact.

POINT NO.2:-

9. In the result, the appeal is dismissed. The judgment of the trial court in C.C.No.910/2013, dt:2.8.2014, is hereby confirmed. But, however, this court is inclined to specify that the sentence of imprisonment awarded by the lower court shall be 'simple'. The rest of the judgment is kept in tact.

Dictated by me, transcribed by Stenographer Gr-I, corrected and pronounced by me in the open court, on this the 18th day of December,2014.

METROPOLITAN SESSIONS JUDGE
HYDERABAD.