IN THE COURT OF THE JUDICIAL MAGISTRATE OF I CLASS AT: ADILABAD

Present:
Smt. B.Mary Sara Danamma, MA, B.L.,
Judicial Magistrate of I Class, Adilabad.

Wednesday this the 13th day of April 2016

C.C.No. 01 of 2015

Between:
State of Telangana through S.I. of police , PS Thamsi.

.. Complainant

a n d

A1: Javed Khan Patan @ Javed S/o. Hameed, Khan , Age: 22 years, Occ: Coolie, R/o. Ranganathnagar, Khadbada street, Ward No. 16 Tq. Vani District Yavathmal of Maharashtra State MS.

A2: Dete Rahul @ Ramu, S/o. Dasrath, Age: 21 years, occ: Coolie, R/o. Ranganathnagar, Khadbada Street, Ward No.16 Tq. Vani Dist. Yavathmal of Maharashtra State MS.

A2: Donewar Sagar, S/o. Shankar

(The case split–up against A2 vide CC.No.160/2016, dated: 31.03.2016)

.. Accused

This case has been finally heard on 07.04.2016 in the presence of Senior A.P.P for the Complainant and Sri.K.Srikanth, Advocate for Accused. Upon hearing both sides and having stood for consideration till this day, this court delivered the following:

J U D G M E N T

1. The Sub Inspector of Police, PS Thamsi has filed charge sheet against accused in Cr.No.30/2013 for the offence u/s.379, 411 IPC.

2. The brief averments of prosecution are as follows:

On the intervening night of 20/21.5.2013 A1 to A3 were came to the outskirts of Anthergaon village of Tamsi and broken the transformers and put down the transformer oil on the ground and committed theft of about 9

KGs copper wire and the same wire sold per Kg. 200/- to A4/Majeed at Vani village and accused shared the amount equally and sent it for enjoyment. Hence the complaint.

On the strength of above complaint ,Lw10/Mahender, the then SI Tamsi registered this case in Cr.No. 30/2013, u/s. 379 IPC and issued FIR. During the course of investigation he examined the Lw1 and recorded his statement. Then he rushed to the scene of offence situated in the outskirts of Anthergaon village and observed the scene of offence, He examined the Lw2/Ambepu mahender, Lw3/Singamshetty Santhosh, Lw4/Bonipelli Chinaian and lw5/Kiran Kumar and recorded their statements and took the photographs of the scene of offence with the help of Lw5. Later, he secured the presence of two mediators i.e Lw6/Rajanna and Lw7Dathu and drafted the crime details form and drafted rough sketch of the scene of offence.

On 14.08.2014 at 11.00 hours the accused Javed Khan Pata @ Javed Donewar Sagar, Dete Rahul @ Ramu were arrested in Cr.No. 105/2014, U/s 379 , 411 IPC of PS Jainath and remanded them to the judicial custody on same day. During their arrest in Cr.No. 105/2014 , u/s 379 r/w 411 IPC the above accused persons voluntarily confessed about their involvement in Cr.No. 30/2013 u/s 379 IPC of Tamsi before the mediators i.e. Bathur Narayana, Gummadi Venkat Reddy. Cr.No. 47/2013 u/s 379 IPC of PS Tamsi is so far under investigation and pending with arrest of accused and also recovery of case property .The arrested accused persons are boarding in the District Jail Adilabad in Cr.no. 105/2014, u/s 379, 411 IPC of PS Jainath.,

On 18.09.2014 the accused A1 to A3 were produced before the Hon'ble court on PT warrant, According to confession panchanama of A1 to A3 the section of Law U/s 411 IPC attracted in this case against the A4.

After completion of investigation he filed charge sheet against A1 to A3. A supplementary charge sheet u/s 411 IPC file against accused A4/Majeed soon after his arrest.

3. The case was taken on file u/s. 379 or 411 IPC against A1 to A3 . On appearance of A3 and production of A1 on PT warrant, copies of documents were furnished to them as contemplated u/s. 207 Cr.P.C. (The case was split up against A3 and A4)

4. A1 and A3 were examined u/sec. 239 Cr.P.C. Charge u/sec. 379 or 411 IPC framed against them, read over and explained to them. They denied the charge, pleaded not guilty and claimed to be tried.

5. In order to prove the guilt of A1 and A3, PWs 1 to 5 are examined and Exs.P1 to P6 are marked. The evidence of Lw3/Singamshetty Santhosh, Lw4/Bonipelli Chinaiah, Lw5/Tarode Kiran Kumar,Lw7/Nara Dathu, Lw8/Bathur Narayanana closed by the Court., The evidence of Lw10/Mahender and Lw12/M.Sanjay, SI of police , given up by APP, hence their evidence is closed.

6. A1 and A3 were examined u/s.313 Cr.P.C. for the incriminating evidence appearing against them in the evidence of the prosecution witnesses. They denied the same and reported no defence evidence.

7. Heard both sides.

8. The point for determination is -

Whether the prosecution is able to bring home the guilt of A1 and A3 for the offence U/sec. 379 or 411 IPC beyond all reasonable doubt?

POINT :

9. In order to bring home the guilt against the accused, the prosecution has been examined Pws 1 to 5 and Ex.P1 to P6 marked.

10. Pw4 who is the defacto complainant by name Durgam Srinivas, the then A.E. (APNPDCL) Tamsi, deposed that on 21.5.2013, Pw1 informed him that some copper wire committed theft by break open the transformer in Sy.No. 31 at 25-KVA. Immediately he went to the spot which is situated in the land of Pw2 the cost of copper wire of Rs.5000/- . He gave report to the police marked as ExP4. The copper wire was not recovered by the police.

12. PW1 who acted as panch witness for crime details form and rough sketch by name Rajanna deposed that he was called by the police to the place of offence i.e land of Mahender, he went there, where police observed and prepared report which he put his signature ExP1 is crime details form

14. Pw2 who is circumstantial witness by name Mahender deposed that at about 2 years back on one day he noticed that some of the copper wire was committed theft by break open the transformer in his land. He informed the same to Lw1/A.E then police came and enquired the same.

15. Pw3 who acted as panch witness for confession panchas of A1 to A3 by name Gummadi Venkat Reddy deposed that on 14.08.2014 at about afternoon time police arrested 3 persons, while they were returning from Mandagada village, where enquired about the apprehension of accused, on enquiry by the police they revealed their identity particulars and also confessed about the offence. Police prepared panchanama in which he put his signature, He was present by the time of arrest of 3 persons .ExP2 and 3 are certified copies confession panchanamas.

16. Pw5/M.Raju took up further investigation in this case, he verified the FIR registered by SI/Lw10/Mahender.ExP5 is original FIR. On 14.08.2014 at about 6.00 a.m., while he was doing patrolling duty at Dollara village outskirts of Jainath Mandal, they noticed 3 persons on suspicions circumstances they stopped them on enquiry they revealed their identity

particulars and also confession about the offence that they committed theft in this crime ie. Cr.No. 30/2013 of PS Thamsi and other crimes relating to PS Talamadugu and PS Jainath . They confessed about the offence in the presence of mediators by name Lw8/Narayana and Pw3. He arrested them (no property was recovered) under cover of confession panchanama, dated 14.8.2014 . He also prepared confession panchanama separately. From there they returned to police station along with arrested accused. After completion of due formalities be he sent A1 to A3 for remand in Cr.No. 105/2014 of Jainath PS. He filed requisition before Hon'ble Court for add the section 411 IPC . The Lw12/Sanjay, SI produced A1 and A2 on PT warrant. After completion of investigation Lw12/SI filed charge sheet against all accused.

17. On perusal of entire story of prosecution, it is evident that PW4 is the defacto complainant who is the Asst. Engineer in electricity department, he categorically deposed that some unknown offenders committed theft of copper wire worth of Rs. 5000/- from one land outskirts of Anthergaon village. He categorically stated that he came to know about the theft of copper wire, but he does not know who committed theft of copper wire. Hence, it is clear that he is the person who came to know about the committing of theft but he does not know who committed theft of copper wire his evidence is hearsay evidence.

20. PW1 who acted as panch witness for crime details form, categorically stated that he was called by the police to the place of offence, where police observed and prepared report which he put his signature ExP1 is crime detail form. According to Pw2 at about 2 years back on one day he noticed that some of the copper wire was committed theft by break open the transformer in his land, then he informed the same to Lw1/AE. Hence, it is also clear that PW 2 is the eye witness to the incident and his evidence

is only circumstantial. The circumstantial evidence is helpful only when the other eye witnesses support the case of prosecution.

21. On the other hand Pw3 who is independent witnesses who is present by the time of confession, categorically stated that on 14.08.2014 at about afternoon time police arrested 3 persons, while they were returning from Mandaga village, where enquired about the apprehension of accused, on enquiry by the police he revealed their identity particulars and also confessed about the offence. Police prepared panchanama in which he put his signature . He was present by the time of arrest of 3 persons .ExP2 and 3 are signatures on confession panchanama (certified copies) . In his cross examination he stated that the accused never confessed in his presence and the police obtained his signature at police station.

22. As per the version of prosecution that some unknown persons committed theft of copper wire from the transformer which is situated at the outskirts of Anthergaon village after noticing that the villagers informed the same to Asst. Engineer/Pw4 he gave report to the police. There is no direct evidence for the commission of offence i.e. accused committed theft of copper wire from the transformer.

23. It is pertinent to note that the entire evidence of prosecution hinges upon the evidence of only PW1 who acted as punch witnesses by the time of scene observation. The evidence of recovery of property place very important role to fasten liability against the accused. Pw3 who is the independent witness who was present by the time of confession panchanama. According to him, the police prepared report in which he put his signature on it. But the police did not recover any property from their possession before him. Except that he do not know anything about the case facts, so his evidence is not helpful to prove the case of prosecution.. Pw3 is the crucial witness to testify whether police seized the property from the

possession of accused has been testified by the prosecution to prove the complicity of the accused in respect of seizure.

24. On the other hand no serious doubt has been created during the course of cross examination. Further it is to be taken note of that the prosecution utterly failed to prove their case against the accused.

25. It could be seen from the record there is no material on record to connect the accused with the present case the seizure of property from the possession of accused would not be proved by the prosecution to only the evidence of Pw6 it is not sufficient to prove the guilt of accused. The Lw10/P.Mahender the then Sub-inspector of police, PS Thamsi, registered a case in Cr.No.30/2013 for the offence U/s 379, 411 IPC, examined and recorded the statement of Lw1/Pw6, visited the scene of offence and prepared Crime Detail Form. Thereafter Lw12/Sanjay , SI of police PS took-up further investigation in this case. Pw5/SI PS Jainath effected the arrest of accused in their crime, but not recovered any property from the possession of accused and after completion of due formalities he produced the accused before the Court for judicial remand and after completion of investigation Lw12/Sanjay filed charge sheet in this crime.

26. The prosecution could not able to supplied the sufficient material to prove the guilt of the accused after gone through the entire evidence and available on record, this court is of the opinion that the prosecution failed to prove the guilt of accused for the offence u/s 379 or 411 IPC and accused are acquitted for the said offence.

27. **In the result**, A1 and A3 are found not guilty for the offence u/s. 379 or 411 IPC and they are accordingly acquitted u/s.248 (1) Cr.P.C. The bail bonds of A3 shall stand cancelled after time is over.

No property deposited in this case. Since no order was passed.

The jail authorities are directed to release the A1 forthwith, if he is not required in any other cases.

Typed to my dictation by stenographer and after correction pronounced by me in the open court on this the 13th day of April 2016.

JUDICIAL MAGISTRATE OF I CLASS,
ADILABAD.

APPENDIX OF EVIDENCE

Witnesses examined

For Prosecution:		For Defence:
(LW6)PW1	Konarapu Rajanna/panch for crime details form	
(LW2)PW2	Ambepu Mahender/ circumstantial witness	N ON E
(LW9)PW3	Gummadi Venkari/confessional panch of A1 to A3	
(LW1)PW4	Durgam Srinivas/defacto complainant	
(LW11)PW5	M.Raju,Sub-Inspector of police, PS Tamsi/arrested the accused and sent them for judicial remand	

Exhibits Marked

For Prosecution:		For Defence:
Ex.P1	Crime details form, dated: 5.6.2014 (at the outskirts of Anthergaon village)	
Ex.P2	Certified copy of confession panchanama of A1	N I L
Ex.P3	Certified copy of confession panchanama of A2	
Ex.P4	Report given by Pw6 to police	
ExP5	Original FIR	
ExP6	Certified copy of confession panchanama of A3	

M.O's Marked:

--Nil--

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