

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 671/2017

D RAMALINGAM & ANR.

APPELLANT(S)

VERSUS

STATE REP. BY
THE INSPECTOR OF POLICE & ANR.

RESPONDENT(S)

O R D E R

1. The accused-appellants, D.Ramalingam (A-2) and Mujibur Rahman (A-3) have been convicted by the learned trial Court under Sections 392 and 397 of the Indian Penal Code. They have been sentenced to undergo rigorous imprisonment for two years for the offence under Section 392 IPC and seven years for the offence under Section 397 IPC. The said order has been affirmed in appeal by the High Court. Aggrieved, this appeal has been filed.

2. We have heard the learned counsels for the parties.

3. Learned counsel for the accused-appellants, at the outset, has submitted that insofar as A-3 is concerned, the evidence on record would not permit the Court to come to a

conclusion with regard to the commission of the offence under Section 392 IPC. At best, the acts attributed would amount to the commission of the offence under Section 393 IPC. Therefore, according to the learned counsel the conviction under Section 392 IPC as well Section 397 IPC would be legally untenable. Insofar as the other accused-appellant i.e. A-2 is concerned, it has been urged that no overt act has been attributed to the said accused-appellant so far as the offence under Section 397 is concerned. The said conviction is consequently assailed on the said basis.

4. Learned counsel for the State has drawn the attention of the Court to the evidence of PW-1 (T.P. Chelladurai) and PW-2 (P. Chelladurai), which according to the learned counsel conclusively brings home the charge against the accused-appellants both under Sections 392 and 397 IPC.

5. We have read and considered the evidence of PW-1 and PW-2 and the other materials on record.

6. Having perused the evidence of PW-1 and

PW-2, we find that the role attributed to A-3 so far as the offence under Section 392 IPC is concerned is that by displaying a knife which was 1¼" in length he had asked PW-1 to hand over the money failing which he would be killed. While, it may be correct that the bag was actually snatched by the other accused, it is our considered view that the aforesaid participation of A-3 is sufficient to bring home the charge under Section 392 IPC. Possession of the knife to create panic or terror in PW-1 to hand over the property in question would also attract the ingredients of Section 397 IPC. The above view stands fortified by following observations of this Court in Dilawar Singh vs. State of Delhi¹

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xxx

In the instant case admittedly no injury has been inflicted. The use of weapon by offender for creating terror in mind of victim is sufficient. It need not be further shown to have been actually used for cutting, stabbing or shooting, as the case may be.

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xxx

xxx

7. Coming to accused No.2, as the evidence on record clearly discloses that the said accused had snatched the bag there could be no doubt with regard to the commission of offence under Section 392 IPC by the accused No.2.

8. Apart from the above, there is no other overt role attributed to A-2 so as to make him liable for the offence under Section 397 IPC is concerned. In this regard we may take note of the fact that the prosecution evidence does not establish that A-2 had used any deadly/dangerous weapon at the time of committing the the robbery or had caused grievous hurt or had attempted to cause death or grievous hurt to PW-1.

9. If the above is what the evidence discloses, we do not see how the conviction of A-2 (D.Ramalingam) for the offence under Section 397 IPC can be sustained. The said conviction and the sentence imposed is, therefore, set aside.

10. Consequently and in light of the above, while the conviction and sentence awarded to the accused-appellant No.2, Mujibur Rahman (A-3) is maintained, the conviction of the accused-appellant No.1 D.Ramalingam (A-2) so far as the

offence under Section 392 IPC is concerned is maintained while the conviction under Section 397 IPC is set aside.

11. As the accused-appellant No.1 (D.Ramalingam) has completed the sentence imposed for the commission of the offence under Section 392 IPC, we direct that the said accused be released from custody forthwith unless said custody is required in connection with any other case.

12. We further direct that the accused-appellant No.2 (Mujibur Rahman) to surrender within four weeks from today to serve out the remaining period of sentence.

13. The appeal is disposed of in the above terms.

....., J.
(RANJAN GOGOI)

....., J.
(NAVIN SINHA)

....., J.
(K.M. JOSEPH)

NEW DELHI
AUGUST 08, 2018

ITEM NO.108

COURT NO.2

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 671/2017

D RAMALINGAM & ANR.

Appellant(s)

VERSUS

STATE REP. BY THE INSPECTOR OF POLICE & ANR.

Respondent(s)

Date : 08-08-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE K.M. JOSEPHFor Appellant(s) Mr. P.R. Kovilan, Adv.
Mrs. Geetha Kovilan, AORFor Respondent(s) Mr. M. Yogesh Kanna, AOR
Mr. Partha Sarthi, Adv.
Ms. Meha Aggarwal, Adv.UPON hearing the counsel the Court made the following
O R D E RThe appeal is disposed of in the above
terms.Consequently, pending application(s), if
any, shall stand disposed of.(NEETU KHAJURIA)
COURT MASTER(ASHA SONI)
BRANCH OFFICER

(Signed order is placed on the file.)