

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 576 of 2011**

- Rajesh S/o Harikishan Aged About 34 Years R/o Police Station Sardhana, Distt. Merath (U.P.).

---- Appellant**Versus**

- State Of Chhattisgarh Through Police Station Purani Bhilai, Distt. - Durg Chhattisgarh.

---- Respondent

For appellant	: Mr. Mohd.Tariq Haidar, Adv. under instruction of Mr. Jitendra Gupta, Adv.
For Respondent/State	: Mr. Sameer Behar, PL for State.

Judgment**14/10/2015**

1. Challenge in this criminal appeal is to the judgment of conviction and order of sentence dated 15-7-2011 passed by the 4th Additional Sessions Judge, Durg in Sessions Trial No. 78 of 2007 whereby and whereunder learned trial Court after holding appellant Rajesh guilty for offence under Section 224 and Section 328/120-B of the Indian Penal Code and sentenced to undergo RI for 2 years, and RI for 7 years with fine of Rs. 500/-, in default of payment of fine to undergo additional SI for 2 months respectively. Both the sentences are directed to run concurrently. Period of detention is to be set off for the period of sentence.
2. Conviction is impugned on the ground that without there being an iota of evidence, learned trial Court has convicted and sentenced the appellant as aforementioned thereby committed illegality.
3. Learned counsel for the appellant submits that original record of the complaint case No. 78/2007 (State -v- Vijay and six others) is available for hearing in Cr.A. No. 564/11 and Cr.A. No. 653/11 and present appeal. Hence present appeal may be disposed of finally.
4. Heard finally.
5. Learned counsel for the appellant submits that appellant is in custody since 14-1-2008 till date as per certificate prepared by the trial Court under Section 428 of the Code of Criminal Procedure. As instructed, the appellant does not want to press this appeal on merit as he has served entire

sentence. The appeal may be dismissed as not pressed.

6. Also heard learned counsel for the State.
7. Perused the certificate prepared by the trial Court under Section 428 of the Cr.P.C. regarding period of detention. As per judgment of the trial Court, the period of detention is to be set off from the period of detention. The certificate shows that the appellant was in jail as under trial prisoner since 14-1-2008 and till date of judgment and thereafter he is still in jail after pronouncement of judgment, which goes to show that the appellant has served entire jail sentence. Even otherwise, the appellant does not want to press this appeal on merit.
8. From perusal of record and entire evidence, I do not find any illegality or infirmity in the conviction and sentence imposed against the appellant by the trial Court.
9. Therefore, the appeal is hereby dismissed.

Sd/-

Chandra Bhushan Bajpai
Judge