

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL APPEAL NO. 454 OF 2002

Ashok @ Chhotu S/o Girdhar Lal Soni, aged 25 years, R/o Ashwani Nagar, PS Purani Basti, District Raipur (CG).

... Appellant

Versus

State of Chhattisgarh through PS Purani Basti, District Raipur (CG).

... Respondent

For Appellant	:	Shri HB Agrawal, Sr. Advocate along with Smt. Prabha Sharma, Advocate.
For Respondent/State	:	Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

JUDGMENT ON BOARD

On 07.10.2017

1. The appellant stands convicted for the offence punishable under Section 394 IPC and has been sentenced to undergo RI for four years with fine of Rs.500/- with default stipulation of additional RI for two months in the event of non payment of fine amount vide judgment dated 19.02.2002 passed by the 7th Additional Sessions Judge, Raipur, in Sessions Trial No.112/2001.
2. The case of the prosecution is that, the present appellant is said to have assaulted one Kishore Singh, PW-1, on 24.02.2001 with long knife at his right leg when the said complainant Kishore Singh refused to grant any money to the present appellant for consuming liquor. Initially an offence under Section 397 IPC was charged against the appellant, however, after conclusion of trial, the court below found the appellant to be guilty of offence under Section 394 IPC only and

accordingly holding him guilty of offence under Section 394 IPC convicted and sentenced as aforementioned.

3. The contention of the appellant is that the case of the prosecution does not stand established for the reason that knife has not been properly seized and produced before the trial court during the evidence. Likewise, the amount of money recovered from the present appellant was not identified and there were so many contradictions and omissions in the statements of prosecution witnesses.
4. The State counsel however submits that it is a case where the case of the prosecution has been proved beyond all reasonable doubts from the evidence of eyewitness Manoj Kumar, PW-4, who had witnessed the entire incident and thus, prayed for rejection of the appeal.
5. Having considered the rival contentions put forth on either side and on perusal of records what clearly reflects is that the prosecution has led evidence of complainant, Kishore Singh, PW-1, who has specifically narrated the incident and have also named the present appellant of having committed offence. He further deposed that assault was made when he refused to give Rs.50/- to the present appellant for consuming liquor. To support the version of the complainant, the prosecution has also led evidence of eyewitness Manoj Kumar, PW-4, who operates a small shop near the place of incident and who has witnessed the entire episode. There is not much which has been extracted from the cross examination of these two witnesses by which the case of the prosecution has to be doubted. In addition, the seizure witness

Ravindra also supported the case of the prosecution so far as seizure of knife used in the assault is concerned.

6. Given the facts and circumstances of the case and the evidence which have come on record, this court does not find any illegality or infirmity on the part of the trial court in reaching to the conclusion holding the appellant guilty of offence under Section 394 IPC. Thus, affirming the judgment of conviction and the sentence imposed, the appeal deserves to be and is hereby dismissed.
7. It is informed that the appellant, in due course of time, has completed his sentence and has been released from jail on 08.01.2004 and thus, no further steps is required to be taken.

Sd/-
(P. Sam Koshy)
Judge