

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Appeal No. 272 of 2005**

Budharam Bhattra, aged 45 years, S/o Sonu Bhattra, Caste Bhattra, R/o
Babu Semara, Thana – Nagarnar, District Baster/Jagdalpur (CG)

---- Appellant**Versus**

The State of Chhattisgarh through P.S. Nagarnar, District Bastar (CG)

---- Respondent

For Appellant	:	Shri B. D. Badgayan, Advocate
For Respondent/State	:	Shri Surya Kant Mishra, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****07.10.2017**

The appellant in the instant case stands convicted for the offence under Section 489 (B) of IPC and sentenced to undergo RI for five years with fine of Rs.500/-, in default of payment of fine to further undergo RI for one month vide judgment dated 20.01.2005 passed by the 1st Additional Sessions Judge, Jagdalpur in S. T. No. 261/2004.

2. The case of the prosecution, in brief, is that the appellant was found in possession of large quantity of fake currency which he was circulating in the market.

3. During the course of trial the prosecution examined as many as 6 witnesses. After conclusion of trial, the Court below found the appellant guilty for having committed the offence under Section 489 (B) of IPC and sentenced him to undergo RI for five years with fine of Rs.500/- with default stipulation leading to the filing of the present appeal.

4. Counsel for the appellant submits that it is a case where the prosecution has miserably failed to prove its case against the appellant beyond reasonable doubt. He submits that the witnesses who have been examined by the prosecution have either not supported the case of the prosecution or have turned hostile. He submits that out of two seizure witnesses one namely Rajpal PW-1 has not supported the prosecution case and has been declared hostile whereas the other witness namely Sanyashi P-2 though has not been declared hostile but has not supported the case of the prosecution. Thus, the entire seizure of the alleged fake currency from the custody of the present appellant stands disproved or not proved, therefore, the advantage of the same should be given to the appellant. Counsel for the appellant contended that there are many omissions and contradictions in the statement of PW-4 Budru and PW5 Nandai and therefore, giving benefit of doubt, the appellant should be acquitted. He submits that the case of the prosecution does not match with the deposition of PW-4 and PW-5 and also the seizure made from PW-5 Nandai. Thus, prayed for setting aside of the impugned judgment of conviction and acquittal of the appellant.

5. State counsel, however, opposes the appeal and submits that the prosecution has led sufficient evidence to prove its case and that there is no omission and contraction so far as the evidence which has been led by the prosecution is concerned and prayed for rejection of the appeal.

6. Having considered the rival contentions put forth on either side and on perusal of the record what clearly reflects from the evidence is that true it is that the two seizure witnesses namely Rajpal PW-1 & Sanyashi PW-2 have not supported the case of the prosecution. However, at this juncture considering the gravity of the offence it would be relevant to take into consideration the other evidences adduced by the prosecution. PW-6

Harinandan Singh is the Investigating Officer who has narrated the entire case of the prosecution and has categorically deposed that at the time of search, Rs.4,550/- was seized from the possession of the appellant in the denomination of 100 and 50 which were found to be fake currency. According to PW-6, there were 42 currency of 100 denomination worth Rs.4,200/- and 7 currency notes of 50 denomination worth Rs.350/- totaling Rs.4,550/- were found in the possession of the appellant. Further, PW-4 Budru and PW-5 Nandai who were running business of selling liquor in the village have deposed before the Court that the appellant had approached them seeking change of 100 as well as 50 currency notes which bona fide both the witnesses accepted and offered the change as the appellant was their regular customer. Though the seizure witnesses have turned hostile, the deposition of PW-4 & PW-5 and the recovery of fake currency notes from them which are alleged to have been received from the present appellant stands proved to the extent of the appellant was circulating fake currency in the market. Thus, this Court has no hesitation in reaching to the conclusion that the case of the prosecution stands established and proved. This Court does not find any illegality or infirmity in the finding of the trial Court convicting the appellant for the offence punishable under Section 489 (B) of IPC.

7. The appeal thus fails and is accordingly dismissed.

8. The Office report shows that the appellant has been released from jail on completion of his jail sentence on 04.08.2007. Hence, no further step is required to be taken.

Sd/-
(P. Sam Koshy)
JUDGE