

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1094 of 2012**

- Briz Lal S/o Jeevnu Ram Aged About 45 Years R/o Village Parvidhi, Thana - Maanpur ,distt. Rajnandgaon C.G.

---- Petitioner**Versus**

- State Of Chhattisgarh S/o Thropugh - Sho., P.S. Maanpur ,distt. Rajnandgaon C.G.

---- Respondent

 For the Appellant : Shri Deepak Jain, Advocate.

For the State/Respondent : Smt. M. Asha, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on board****16/09/2017**

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 30.10.2012 passed by the Sessions Judge, Rajnandgaon, District- Rajnandgaon, Chhattisgarh in Session Trial No.66/2010, whereby appellant has been convicted under Section 5 of Explosives Act, 1908 and sentenced to undergo RI for 10 years with fine of Rs.5000/-, in default of payment of fine to further undergo RI for 6 months.
2. The facts of the in brief are these, that while investigating the offence under Crime No.33 of 2010 registered for the offence under Sections

147, 148, 149, 302 and 364 of IPC along with Sections 15, 38(1)(2) and 39(1)(2) of the Unlawful Activities Prevention Act, 2004 and Section 25 and 27 of the Arms Act, against the alleged Maoists, a recovery on the basis of memorandum given by him was effected vide Ex.P-29. The recovered article was a tiffin bomb, a detonator and a bundle of electric wire. After completion of investigation, appellant and co-accused persons, were charge-sheeted.

3. Appellant charged with offence under Sections 147, 148 and 302/149 of IPC; Section 25(1)(b) and 27 of Arms Act, Section 3/5 Explosive Act, Section 15(1)(2) Prevention of Unlawful Activities Act, 1967 and Section 38(1)(2) and 39(1)(2) of Unlawful Activities Act. The co-accused persons were also charged by the trial Court.
4. After affording opportunities to prosecution and defence for adducing evidence and submitting the arguments, the impugned judgment has been passed. All the co-accused persons have been acquitted of all the charges. However, the appellant has been convicted and sentenced for the charge of offence as aforementioned and was acquitted of all the remaining charges. Hence, this appeal.
5. The grounds in this appeal are these, that the trial Court has wrongly appreciated the evidence of prosecution witnesses, who were not reliable in any sense and order of conviction has been passed on unsustainable ground, hence, appellant is entitled for acquittal.
6. Learned counsel for the appellant submits that he is not pressing this appeal so far as it relates to conviction part of the impugned judgment

and would confine his argument to the sentence part thereof only. He submits that the appellant is in custody since 2.8.2010 and thereby served almost more than seven years, therefore, the sentence imposed on him may be reduced to the period already undergone.

7. Learned counsel for the State opposes the submissions made.
8. Heard both the parties and perused the documents on record.
9. On the basis of submission made by the counsel for appellant, there is no need to consider the grounds raised in appeal challenging the finding of conviction against the appellants. The prayer made by the appellant regarding sentence part of the impugned judgment is considered.
10. The only findings against the appellant on the basis of evidence is this that in the course of the investigation tiffin bomb and other explosive articles were found in his possession for which he had no explanation and nothing to account for. There is no direct evidence that appellant was connected with any of the offence committed by the Maoists or that he was an active member of the Maoists group, hence, under these circumstances and looking to the period of sentence already undergone by him, this appears to be a fit case where the prayer for reducing the sentence of imprisonment to the period already undergone can be allowed.
11. On the basis of reasons aforementioned, this appeal is allowed in part. While upholding the conviction of appellant, the sentence awarded to the appellant is modified to the period of jail sentence already

undergone by him. Appellant be set at liberty forthwith if not required to be detained in connection with any other offence.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha