

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 203 of 2010**

1. Ranjit Kumar S/o Khorbahra Ram Sahu aged about 22 years.
2. Dilip Kumar S/o Jodhan Sahu aged about 24 years.
3. Jodhan Ram Sahu S/o Khorbahra Ram Sahu, aged about 53 years.

All R/o Village Borsi, Thana Phingeshwar, District Raipur (CG).

---- Appellants.

Versus

- State of Chhattisgarh through Police Station Phingeshwar, District Raipur (CG).

---- Respondent

For the appellants : Mr. Raghavendra Pradhan, Advocate

For the respondent/State : Mrs. M. Asha, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment on Board****5-10-2018.**

1. This appeal is preferred against the judgment dated 9-3-2010 passed by the Additional Sessions Judge, Gariyaband, Session Division Raipur (CG) in Sessions Trial No. 28 of 2009 wherein the said court convicted the appellants under Sections 342 and 352 of IPC and sentenced them to undergo RI for one year and fine of Rs 100/- each and RI for three months and fine of Rs.500/- each with default stipulations.
2. As per prosecution case, appellants tied the hands and legs of victim Vijay Kumar Sahu with rope on 22-2-2009 at about

11.00 a.m., at village Borsi and tried to set him ablaze upon pouring kerosene on him.

3. Vijay Kumar Sahu is the victim and as per his version appellants tied him with rope and thereafter poured kerosene on him, but this version is not stated by him during investigation to Police Officer when he recorded his statement under Section 161 of the Code of Criminal Procedure as per Ex.D/3. The other witness is Khilawan (PW/3) and he has also supported the version of Vijay Kumar Sahu, but his statement before the court is exaggerated to his earlier statement recorded by the Police Officer and in his earlier statement he did not state regarding pouring of kerosene. PW/2 Itwari Ram is hearsay witness to whom Kartik Ram (PW/1) informed about the incident. Kartik Ram (PW/1) has not supported the version of prosecution. PW/5 Kamlesh Tarak has also not supported the version of prosecution. Krishna Kumar Sahu (PW/9) is the person to whom Ranjit informed about the incident. The other witnesses are witnesses of assistance during investigation after registration of first information report..
4. The trial court has elaborately discussed the evidence and came to conclusion that it is a case of wrongful confinement and assault on the body of the victim Vijay Kumar Sahu. This court has re-assessed the evidence and has no reason to record contrary finding.

5. Accordingly conviction of the appellants for commission of offence under Sections 342 and 352 of IPC is hereby affirmed. Appellant No.1 Ranjit Kumar suffered jail term from 1-3-2009 to 30-3-2009 i.e., 30 days, appellant No.2 Dilip Kumar suffered jail term from 21-4-2009 to 2-5-2009 i.e., 12 days and appellant No.3 Jodhan Ram Sahu suffered jail term from 9-5-2009 to 27-6-2009 i.e., 50 days. Corporal punishment for offence under Sections 342 & 352 of IPC is not compulsory.
6. Considering all the facts and circumstances of the case, this court is of the opinion that ends of justice would be served if corporal punishment i.e., sentence of jail term is reduced to the period already undergone by the appellants while fine amount shall remain intact. It is ordered that while maintaining conviction under Sections 342 and 352 of IPC, now the appellants are sentenced to the period already undergone by them and the fine amount imposed by the trial Court shall remain intact.
7. With the aforesaid modification, the appeal is partly allowed. The appellants are reported to be on bail and their bail bonds shall continue for further period of six months in view of Section 437-A of Cr.P.C.

Sd/-

(Ram Prasanna Sharma)
JUDGE