

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****ACQA No. 410 of 2010**

- State of Chhattisgarh, through District Magistrate, Ambikapur, Surguja (CG).

---- Appellant.**Versus**

1. Puran Prasad Rajwade Aged About 28 Years S/o Ishwar Prasad Rajwade R/o Village Udaypur, Patrapara, Ps Udaypur, Korea
2. Revti Raman Rajwade Aged About 29 Years S/o Ghuran Rajwade R/o Village Khakhat, Charcha, District Korea Chhattisgarh

---- Respondents.

For Appellant/State	Mr. P.K. Bhaduri, Govt. Advocate.
For respondents	Mr. Mahendra Dubey, Advocate

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Hon'ble Shri Prashant Kumar Mishra,
Hon'ble Shri Ram Prasanna Sharma, JJ

Oral Judgment**Per Ram Prasanna Sharma, J****(27-2-2018)**

1. This acquittal appeal is preferred against the judgment dated 14-7-2008 passed by 3rd Additional Sessions Judge (FTC) Surguja at Ambikapur, Sessions Division Surguja in Sessions Trial No. 41 of 2007 wherein the said Court acquitted the respondents from the charges under Section 395 of IPC, 1860.

2. In the present case, name of the complainant is Santram. It is alleged that on 25-4-2004 at about 10.00 pm , 7 -8 persons entered into his house and by pointing fire arms they committed robbery in his house and removed currency notes valued Rs.600/-.
3. The case of prosecution is based on test identification parade and identification before the trial Court. First information report was lodged against unknown persons. As per version of Santram (PW/5), Phulmatiya (PW/1), Sukhmaniya (PW/2), Lalita (PW/3) and Mohanmaniya (PW/4), they claimed that they may identify the persons who entered into their house at the time of incident.
4. PW/2 Sukhmaniya deposed that the persons who entered into their house had covered faces of her and her husband and there was no occasion for her to see the faces of the culprits. She further deposed that at the time of identification, Police Inspector was present. PW/1 Phulmatiya deposed that she did not identify the accused persons. PW/3 Lalita also did not identify the accused persons. PW/4 Mohanmaniya deposed on same line. PW/14 C.S. Paikra deposed that accused persons were brought by Police and as per version of PW/9 Siddharth Singh, identification chart was kept ready as per direction of the Police Officer. It has further come on record that accused persons were shown at Police Station Jainagar and at jail of Baikunthpur prior to identification parade.
5. Looking to the facts, it was doubtful that witnesses have occasion to see the faces of the culprits and again their identification also suffers from material irregularity, the trial Court opined that the offence is not proved beyond shadow of doubt.

6. Looking to the overall assessment of the evidence, we are of the view that the finding arrived at by the trial Court is proper and calls for no interference by this Court. Accordingly, the appeal fails and the same is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Sd/-
Judge
(Ram Prasanna Sharma)

Raju