

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 25 of 2009

- Madan Sao S/o Samaru Sao, aged about 40 years, Occupation Welding Work in Jindal Private Company, R/o Village Karanchhapara, Tahsil Raniganj, District Baliya (UP), At presently resident of Kirodimal Nagar, Raigarh, Tahsil & District Raigarh (CG)

---- Appellant

Versus

- State of Chhattisgarh through Station House Thana, Kotara Road, Raigarh, District Raigarh (CG)

---- Respondent

For Appellant	:	Mr. R.K. Pali, Advocate.
For Respondent/State	:	Mr. Lav Sharma, Panel Lawyer.

HON'BLE SHRI JUSTICE RAM PRASANNA SHARMA

JUDGMENT ON BOARD

15/11/2018

1. This appeal is preferred against the judgment of conviction and order of sentence dated 17.12.2008 passed by 1st Additional Sessions Judge, Raigarh (CG) in Sessions Trial No. 04 of 2008 wherein the said Court has convicted the appellant for commission of offence under Section 201 of the Indian Penal Code, 1860(for short the IPC) and sentenced him to undergo rigorous imprisonment for five years and to pay fine of Rs.2000/- with default stipulation.

2. As per the case of prosecution, daughter-in-law of the appellant namely- Chanarawati died in the house of the appellant due to assault by his son namely- Raju Sao on 11.8.2007 at about 1.00 pm, but the appellant informed at Thana Kotara Road,

Raigarh that when he returned from duty, his daughter – Rajni informed him that Chanarawati died due to she fell down in the house and this information was given with intention of screening his son.

3. To substantiate the charge, prosecution has examined as many as 16 witness.

4. I have heard learned counsel for the parties and perused the record of the court below in which impugned judgment has been passed.

5. Shantibai (PW1) deposed that the deceased had gone to collect wood kept in the house and at the same time she fell down and sustained injury that is why she died. Rajni Rao (PW2) deposed on same line and as per version of this witness, the deceased died in the house itself. Kamla Bai (PW4) also deposed on same line. From the evidence of prosecution witnesses it is not established that the appellant had knowledge of commission of any offence, therefore, it is not a case where information given to the Police is with intention to screen the offender.

6. In the matter of **Sou.Vijaya alias Baby Vs. State of Maharashtra, reported in 2003 (2) CGLJ 337**, it has been stated as under:

“6. Section 201 IPC presents a case of accusations after the fact. “An accessory after the fact”: said Lord Hale, “may be, where a person knowing a felony to have been committed, receives, comforts, or assists the felon”. (See 1 Dale 618) Therefore, to make an accessory ex post facto it is in the first place requisite that he should know of the felony committed. In the next place, he must receive, relieve, comfort, or assist him. And, generally any assistance whatever given to a felon to hinder his being apprehended, tried or suffering punishment, makes the assister an accessory. What Section 201 requires is that the accused must have had the intention of screening the offender. To put it differently, the intention to screen the offender, must be the primary and sole object of the accused. The fact that the concealment was likely to have that effect is not sufficient, for Section 201 speaks of intention as distinct from a mere likelihood.

7. Section 201 punishes any person, who knowing that any offence has been committed, destroys the evidence of that offence or gives false information in order to screen the offender from legal punishment. Section 201 is designed to penalize “attempts to frustrate the course of justice”.

8. Section 201 deals with the following two types of offences:

- (1) Where the offender causes the evidence of the commission of the offence to disappear.
- (2) Where the offender gives any information respecting the offence which he knows or believes to be false.

9. The ingredients of offence under Section 201 are:

- (i) that an offence has been committed,
- (ii) that the accused knew or had reason to believe the commission of such an offence,
- (iii) that with such knowledge or belief he-

- (a) caused any evidence of the commission of that offence to disappear, or
- (b) gave any information relating to that offence which he then knew or believed to be false,
- (iv) that he did so as aforesaid with the intention of screening that offender from legal punishment”.

7. Considering the facts and circumstances of the present case, it is not established that the appellant was having any knowledge of commission of offence and he did anything to save the offender. Ingredients of Section 201 of IPC are lacking, therefore, the finding arrived at by the trial Court is not sustainable in the eyes of law.

8. Accordingly, the appeal is allowed. Conviction of the appellant under Section 201 of IPC is set aside. He is acquitted of the charge under Section 201 of IPC. Fine amount, if paid, be refunded to the appellant. The appellant is reported to be on bail. His 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