

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.671 of 2006**

Mansharam, aged about 40 years, S/o Shri Jhitak Gond, R/o Angara, Police Station Mohala, District Rajnandgaon.

----Appellant

Versus

State of Chhattisgarh, through Police Station Mohala, District Rajnandgaon (CG).

----Respondent

For Appellant : Mr. Anand Kumar Gupta, Advocate
For State : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order on Board**

15.09.2018

1. In this Criminal Appeal, the challenge is levied to the judgment of conviction and order of sentence dated 17.08.2005 passed by First Additional Sessions Judge, Rajnandgaon in Sessions Trial No.136/2001, whereby and whereunder the appellant has been convicted for the offence punishable under Sections 363 & 395 of the Indian Penal Code (for short 'IPC') and sentenced to undergo RI for 2 & 10 years, respectively, both the jail sentences are directed to run concurrently.
2. In brief, the prosecution story is that on 19.06.2001 at about 12.30 am at village Angara, Sukluram and his maternal nephew complainant Fakir were sleeping in the house. At midnight, the appellant and co-accused Chenu, Ankaalu, Safura @ Kavita,

Matho @ Meena, and Budbud @ Navlu Ram had come in the house of Sukaluram. The appellant had picked up the licensee gun of the complainant Fakir and thereafter, the appellant and his companions abducted the complainant Fakir. On the information of Sukaluram, *Dehati Nalishy* was registered in Zero Number in Police Station Mohala. After completion of the investigation, charge-sheet was filed against the appellant and the said co-accused persons. The trial Court framed the charges against them under Sections 365 & 395 of IPC. The appellant abjured the charges and faced the trial.

3. After conclusion of the trial, the trial Court convicted and sentenced the appellant as aforesaid and acquitted co-accused Chenu, Ankaalu, Safura @ Kavita, Matho @ Meena, and Budbud @ Navlu Ram from the charges leveled against them punishable under Sections 365 & 395 of IPC.
4. Being aggrieved by the impugned order of the Trial Court, the appellant has preferred this criminal appeal.
5. Counsel appearing on behalf of the appellant submits that the impugned judgment of conviction and order of sentence are not based on the evidence available on record. Hence, the appeal be allowed and impugned judgment be set-aside.
6. Counsel appearing on behalf of the State submits that judgement of conviction and order of sentence passed by the Trial Court are just and proper; and the same do not call for any

interference by this Court. Hence, the appeal may be dismissed.

7. Sukaluram (P.W.-4) says in para Nos. 1 & 2 of his statement given on oath that complainant Fakir had come in his house along with his licensee gun. When they were sleeping in the house, in the late night at about 12:30 am the appellant and four other persons had come in his house. The appellant and his companions had taken away the complainant Fakir and his licensee gun.
8. Fakir (P.W.-5) says in para Nos.1 & 3 of his statement given on oath that he had gone to the house of his maternal uncle namely Sukaluram along with his licensee gun. At the late night, the appellant and four other persons had reached there and the appellant had snatched his licensee gun. The appellant and his companions had taken away him to the lane by dragging.
9. There is no such evidence on record on the strength of which it can be said that the aforesaid statements of Sukaluram (P.W.4) and Fakir (P.W.5) are not believable.
10. As per alleged seizure Ex.P-4, one license Ex.P-5 was seized from the complainant Fakir (P.W.-5).
11. There is no such evidence on record on the strength of which it can be said that Ex.P-4 & Ex.P-5 are not believable.
12. In *Dehati Nalishy* Ex. P-1, the alleged incident has been mentioned.

13. Ex.P-1 has been lodged without delay.
14. There is no such evidence on record on the strength of which it can be said that Ex.P-1 was lodged as afterthought.
15. After the appreciation of the evidence discussed here before, this Court believes on Ex.P-4 & Ex.P-5 and the aforesaid statements of Sukaloram (P.W.-4) and Fakir (P.W.5).
16. Looking to the above mentioned facts and circumstances of the case, this Court finds that trial Court has not committed any illegality in convicting and sentencing the appellant/accused as aforesaid.
17. Consequently, impugned judgment of conviction and order of sentence passed by the trial Court are affirmed and the appeal being devoid of merit deserves to be and is hereby dismissed.
18. As per the letter of the Superintendent, Central Jail Raipur dated 28.08.2018, the appellant has already served the entire sentence awarded by the trial Court in this case. Therefore, no further order is required.

Sd/-

(Sharad Kumar Gupta)
Judge

L/-