

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 693 of 2013

- Giresh Kumar Sen @ Girwar S/o Johan Aged About 35 Years R/o Village Podagaon, P.S.- Sihawa, Rev. and Civil Distt. Dhamtari C.G. , Chhattisgarh

---- Appellant

Versus

- State of Chhattisgarh Through P.S.-Nagarnar Distt. Bastar C.G., Chhattisgarh

---- Respondent

For the Appellant : Mr. P.K. Tulsyan, Advocate.

For the State/Respondent : Mr. V. B. Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Judgment on board

28/11/2018

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 10.07.2013, passed by the Additional Sessions Judge (FTC), Bastar at Jagdalpur, Chhattisgarh, in Sessions Trial No.121/2012, convicting the accused/appellant under Section 5 of the Explosive Substances Act, 1908 and Section 23(1), 38(1) of the Unlawful Activities(Prevention) Act, 1967 and sentencing him to undergo RI for 5 years with fine of Rs.500/- & RI for 5 years with fine of Rs.500/-, with usual default clauses, respectively. All the sentences have been directed to run concurrently.

2. The prosecution case, in brief, is this that on 6.4.2012 the appellant was apprehended by the personnel of Kobra Battalion finding that the appellant was doing reconnaissance regarding the strength of the force and other features. On search being made, one detonator attached with wire, a map prepared on a paper with pencil, one copy, some service wire, 3 numbers of battery connected with wire and a bag containing clothes were seized from his possession vide Ex-5. The appellant was handed over to the police personnel of Police Station Nagarnar for further inquiry. It was found, on the basis of the expert report, that the seized detonator was live and capable to cause damage. Reports regarding other seized articles were also obtained and according to which, all the seized articles were in working condition.
3. After completion of investigation and obtaining sanction for prosecution vide ExP-6, the charge-sheet was filed before the concerned Court. The charges under Sections 3/5 Explosive Substances Act & Sections 23(2) and 38(2) of the Unlawful Activities Act, 1967 were framed against the appellant which he denied and sought for trial. Appellant was examined under Section 313 of CrPC in which he denied all the incriminating evidence appearing against him, pleaded innocence and false implication. No witness was examined by appellant in his defence.
4. It is submitted by counsel for the appellant that appellant has already been released after completion of his sentence of imprisonment. It is also submitted that conviction against the appellant is bad in law as

there had been no reliable and trustworthy evidence of the prosecution in support of the charge against him, hence, it is prayed that appeal be allowed.

5. Learned counsel for the State has opposed the grounds raised in this appeal as also the arguments advanced by the counsel for the appellant. It is submitted that prosecution has proved its case beyond doubt. The judgment impugned passed by the trial Court is strictly in accordance with law and needs no interference by this Court in exercise of its appellate jurisdiction. Hence, the appeal be dismissed.
6. I have heard learned counsel for the parties and perused the record of the trial Court including the impugned judgment.
7. Dinesh Verma PW-5 is constable in Kobra battalion. He has stated that the appellant was found roaming nearby the camp of battalion in suspicious condition, therefore, he was apprehended and on being searched, one live detonator, 3 numbers of pencil cell, a map of the battalion camp, service wire and a copy in which some matter in writing regarding Naxalism and Maoism were seized from his possession. Thereafter the appellant was handed over to Nagarnar police.
8. Bhuwan Chandra PW-2 Head Constable in Kobra Battalion, Vishal Upadhyay PW-3 constable in Kobra battalion and Mahesh Chandra Gurger PW-4 S.I. in Kobra battalion have supported the version of Dinesh Kumar Verma PW-5. After handing over the articles to the

police, seizure of recovered articles from the possession of appellant was made vide Ex.P-1 by Head Constable Someshwar Baghel PW-1 of police-station Nagarnar. CSP Mrs. Amrita Sori PW-6 did the part of investigation. Inspector William Toppo PW-10 has lodged FIR ExP-3 and made seizure of articles brought by the Constables of the Battalion vide ExP-1 and also arrested the appellant vide ExP-10.

9. Junior Engineer Smt. Sweta Verma PW-8 has reported after examining the seized wire that it was capable for use in flow of electricity. JCO Balvinder Singh PW-9 has examined 3 numbers of batteries & wire and reported vide ExP-8 that the batteries were live and could have been used for detonator, which is an explosive substance. He has also opined vide ExP-9 that the detonator presented for examination was live and could have been exploded. His statement remained unrebutted in the cross examination.

10. After perusing and closely scrutinizing the entire evidence available on record, it is apparent that the trial Court elaborately considered the evidence of each individual material witness in detail and that being the position, this Court finds no infirmity or illegality in the reasons recorded and the conclusion arrived at by the trial Court that the appellant is guilty of the offence punishable under Sections 5 of the Explosive Substances Act, 1908 & Section 23(1), 38(1) of the Unlawful Activities(Prevention) Act, 1967. Hence, this appeal has no substance, the same is liable to be dismissed and is hereby dismissed.

11. Since the appellant has already served the period of rigorous imprisonment to which he was sentenced, no further direction regarding his surrender etc. is needed. .

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha