NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1239 of 2018

1. Khem Lal @ Nanki S/o Vishsher Sagar, Aged About 38 Years, R/o Village Khoksa, P. S. Bhawarpur, P. S. Basna, District Mahasamund, Chhattisgarh, District : Mahasamund, Chhattisgarh

2. Chabilal Patel S/o Gangaram Patel, Aged About 26 Years, R/o Village Sagarpali, P. S. Saraipali, District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

3. Lesram Thakur S/o Sunder Singh Thakur, Aged About 45 Years, R/o Village Santpali, P. S. Basna District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

4. Basant Banjara S/o Tularam Banjara, Aged About 42 Years, R/o Village Kolihadevri, P. S. Basna, District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

---- Appellants

Versus

- State Of Chhattisgarh Through The Station House Officer, Mahasamund District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

---- Respondent

For Appellants – Shri Ajay Ayachi, Advocate.

For Respondent/State – Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-08-2018

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 10-08-2018 passed in Special Case (N.I.A.)/10/2016 by Special Judge (N.I.A.)/Sessions Judge Bilaspur, C.G. convicting the appellants for the offence under Section 489(C) of the IPC sentencing them with rigorous imprisonment for 2 years 6 months along with fine of Rs. 5,000/- with default stipulation.

2. The case of prosecution, in brief, is this, that on 09-06-2016 Sub-Inspector Vinod Sharma (PW-9) received a confidential information that the appellants are in possession of counterfeit currency notes and are prepared to make transactions regarding that. The Sub-Inspector Vinod Sharma (PW-9) proceeded to the spot and the appellants were apprehended, on whose instance counterfeit currency notes were seized from their possession. The FIR was lodged and the investigation was completed and thereafter charge sheet was filed before the concerned Court. Charges were framed against the appellants for the offence under Section 489(B) and 489(C) of the IPC to which they denied and prayed for trial.

3. The prosecution examined 9 witnesses in all. On completion of he prosecution evidence, the appellants were examined under Section 313 of the Cr.P.C. in which they denied all the incriminating evidence against them, pleaded innocence and false implication. No witness was examined in defence.

4. After completion of the trial the impugned judgment has been passed in which the appellants have been acquitted of the charge framed under Section 489(B) of the IPC and convicted and sentenced under Section 489(C) of the IPC as mentioned above.

5. Learned counsel for the appellants submits that no case is made out against the appellants and they have been erroneously convicted by the trial Court without there being any support of evidence of the prosecution beyond reasonable doubt. In alternative, it is prayed that in case this Court is not inclined to allow the appeal and acquit the appellants, then in that case the sentence

of imprisonment imposed upon the appellants may be reduced.

6. Per contra, learned counsel for the State opposing the ground mentioned in the appeal and the submission made in this respect submits that the prosecution has proved its case beyond reasonable doubt and therefore there is no scope for interference in the impugned judgment. Hence, the appeal may be dismissed.

7. Heard learned counsel for the parties and perused the record of the trial Court.

8. In this appeal it has to be examined whether the conviction against the appellants is supported with the prosecution evidence beyond reasonable doubt?

9. Sub-Inspector Vinod Sharma (PW-9) has stated that on receiving confidential information about the counterfeit currency notes in possession of these appellants on 09-06-2016, he proceeded to the spot along with staff members. On arriving on the spot this witness made seizure of counterfeit currency notes of Rs.1,50,000/- from appellant Khem Lal for which search panchnama was prepared vide Ex.-P/9 and the same were seized accordingly vide Ex.-P/11. Similarly on searching appellant Basant Banjara counterfeit currency notes of Rs. 1,86,000/- were recovered and seized from his possession vide Ex.-P/13. Similarly, on search of appellant Leshram Thakur counterfeit currency notes worth Rs.1,70,000/- were recovered and seized from his possession vide Ex.- P/15 and similarly counterfeit currency notes of Rs.1,78,000/- were recovered and seized from appellant Chabilal Patel vide Ex.-P/17. In the cross-examination this witness remained firm on the statement given by him in his examination-in-chief and

there is no other statement made by him to controvert his statement about search and seizure that has been made from the appellants in this case.

10. The independent witnesses of search and seizure Tarun Yadav (PW-5) and Ishtiyak Khan (PW-6) have not supported the prosecution case, because of which, they had been declared hostile; but the statement of Vinod Sharma, Sub-Inspector (PW-9) is supported by the statement of other police personnel who were part of the raiding team namely Narendra Kumar Nirmalkar (PW-1) and Prakashnand (PW-7). Though PW-7 Prakashnand (PW-7), has not supported in full extent, but his statement about his presence at the time of search and seizure and recovery of counterfeit currency notes from the possession of the appellants is intact and the statement of both these witnesses have remained unrebutted in their cross-examinations. Sub-Inspector Radheshyam Giri (PW-8) has lodged the FIR vide Ex.-P/3 and completed the investigation in this case.

11. After close scrutiny of the evidence of the prosecution, it has been found that the independent witnesses of search and seizure have not supported the main witness Sub-Inspector Vinod Sharma (PW-9), but the members of the raiding team who happen to be police Constables have given clear support and corroboration to the statement of Sub-Inspector Vinod Sharma (PW-9), hence, on this basis it has been found that the evidence that have been brought on record by the prosecution have sufficiently proved that the appellants are guilty of having committed the offence beyond reasonable doubt and on that basis the conviction against the appellants in this case does not suffer from any infirmity.

12. Considered on the alternative submission made on behalf of the appellants praying for reduction of sentence. The appellants have been sentenced with rigorous imprisonment of 2 and ½ years along with fine of Rs.5000/- each. It has been submitted that the appellants are in jail since 10-06-2016, thus, their period of detention is about 2 years, 2 months and 18 days, hence, just about 3 months are left to go to complete the sentence of imprisonment by the appellants. Therefore, for the reasons that the appellants do not have any criminal antecedent and no further connection has been brought-forth that the applicants were in the business of circulation of that counterfeit currency notes, hence, it appears that the prayer for reduction of the jail sentence can be allowed.

13. Consequently, the appeal filed by the appellants is allowed in part. Conviction against the appellants under Section 489(C) of the IPC is upheld, whereas, the jail sentence of rigorous imprisonment for 2 years 6 months imposed upon them is reduced to the period of detention already undergone by them in jail. The sentence of fine as awarded by the trial Court is also upheld as it is. The appellants be released from the custody if they are not required in any other case after payment of fine imposed upon them.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil