

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 06 of 2010

Phool Singh @ Kusu Sarthi S/o. Mangatu Ram, aged about 20 years, R/o Jailpara, Dharamjaigarh, Present address :- Jamragi (D), Nawapara, Dharamjaigarh, P.S. & Tahsil Dharamjaigarh, District Raigarh, CG.

---- Applicant

Versus

- State of Chhattisgarh through the District Magistrate, Raigarh.

---- Respondent

For Applicant	: Shri Vivek Bhakta, Advocate
For State/Respondent	: Shri Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

18.03.2019

From the FIR (Ex.P-1) lodged by Santosh Kumar (PW-1), it is apparent that on 11.06.2006 in the night when he was sleeping along with his wife PW-2 and their minor son, the accused/applicant along with two others broke open the door and entered their house. Thereafter the accused/applicant is said to have snatched his child from PW-2 and made a demand for Rs. 20,000/- in lieu of releasing the child. It is also alleged that when the complainant declined to pay the money so demanded, he threatened him of life and also caused club injuries to him. It is further alleged that on arrival of his father-in-law, the accused/applicant freed the child and left the spot. On the basis of FIR (Ex. P-1), offence under Sections 385 and 458 IPC were registered against the accused/applicant and after completion of investigation charge-sheet was filed.

2. Trial Court vide judgment dated 24.06.2008 passed in Criminal Case No. 248/2006 came to the conclusion of accused/applicant being guilty of the offences under Sections 385 and 458 IPC and imposed the sentence of RI for three months u/s 385 and RI for one year and fine of Rs. 300/- u/s 458 IPC.

Lower appellate Court by judgment impugned dated 16.12.2009 has also affirmed the findings recorded by the trial Court. Hence this revision.

3. From the evidence of PW-1, PW-2 and PW-3 it is established that on the date of incident in the night hours the accused/applicant had entered the house of complainant by breaking open the door and tried to make extortion of Rs. 20,000/- by snatching the child of the complainant. Not only this, he also threatened the complainant and his wife to eliminate the child in case of demand made by him was not fulfilled. The doctor (PW-13) who examined the child said to have been thrown away by the accused/applicant while leaving the spot, has stated that he noticed simple injuries which could be caused by hard and blunt object vide report Ex. P-14. Thus there is ample evidence to show that the accused/applicant was involved in commission of the offence alleged against him and therefore, both the Courts below have not committed any legal error in convicting him u/s 385 and 458 IPC. His conviction is thus maintained.

4. As regards sentence, keeping in mind various factors existing at the present such as the case is quite old, he has already remained inside for 02 month and 7 days and that by now he must be reeling under the pressure of family responsibilities, interest of justice tilts in his favour. Accordingly, this Court does not see any reason to again send him to jail and thereby disturb his well settled family life. Being so, the jail sentence imposed on him is reduced to the period already undergone by the accused/applicant.

5. With the above observations and modifications in the order impugned, the revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge