

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 99 of 2006

1. Parshu, S/o Bhawara Panika, aged about 35 years,
2. Dashrath, S/o Baharu Agariya (Panika is wrongly mentioned in judgment) aged about 28 years, (Dead)
3. Munna, S/o Bhot Panika Agariya Panika is wrongly mentioned in judgment) aged about 21 years,
4. Ramnath, S/o Kameshwar Yadav Panika is wrongly mentioned in judgment) aged about 30 years,

All are R/o Villaged – Sargawan, Police Station – Balrampur, District Surguja, CG.

---- Applicants

Versus

State of Chhattisgarh through District Magistrate Ambikapur, District Surguja, CG.

--- Respondent

For Applicants No. 1 & 4. : Shri Bhupendra Singh, Advocate

For Applicant No. 03. : Shri Vijay K. Deshmukh, Advocate

For State/Respondent : Smt. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

16/01/2019

On 08.10.2001 FIR (Ex. P-2) was lodged by Rajendra (PW-2) alleging that on 06.10.2001 he had gone to buy a calf and as the darkness had set in, he stayed in the house of one of his relatives namely Ramnath (one of the accused herein). It is also alleged that an amount of Rs. 5,850/- kept with him for the said purpose was handed over to the accused/applicant Ramnath for being kept safely. Ramnath is then said to have given the said amount to his wife (DW-2) for being kept in safe custody. In the same night the accused/applicant Ramnath is alleged to have made Rajendra drunk heavily and after consumption of liquor he went to sleep. Report says that in the dead of night, three unknown persons entered the house of accused Ramnath, tied Rajendra down and threatened him on the point of sword to be finished in case of any alarm being raised. When those three persons made the demand of money,

accused Ramnath brought the tin box containing the said amount from his wife and after taking the same, they ran away. Subsequently, accused Ramnath freed Rajendra (PW-2). After completion of investigation, charge-sheet was filed against them under Sections 394 and 120-B IPC and the charge framed accordingly.

2. By judgment dated 02.05.2005 learned trial Court convicted the accused/applicants u/s 394 and 120-B IPC and imposed the sentence of RI for two years with fine of Rs. 1500/- each, with default stipulation. In appeal, the conviction and sentence recorded by the trial Court have been affirmed. Hence this revision.

3. Counsel for the accused/applicants does not assail the conviction part of the judgment impugned and his only request is that looking to the incident being quite old and also considering the fact that they have remained under detention for about 07 months, the jail sentence imposed on them may be reduced to the period already undergone and thereby their well settled family life may be protected from being up-rooted at this stage. State counsel however, supports the judgment impugned.

4. Having gone through the evidence of the witnesses, it did not occurred to this Court that there was any previous dispute between the complainant (PW-2) and accused persons which led to their implication in a false case. From the evidence of Assistant Sub-Inspector (PW-6) it is apparent that accused/applicant Munna in his memorandum Ex. P-5 has disclosed that acting upon the say of accused Ramnath they had entered his house along with accused Dashrath (Since dead) and Parsu in order to commit the offence after arming themselves with sword which was seized under Ex. P-8. Though the complainant (PW-2) gave the description of those persons and claimed to identify them if came across, yet the prosecution did not bother for conducting the identification parade. Moreover, father of complainant namely Garju (PW-3) has also stated that

his son had gone to buy a calf carrying Rs. 5,850/- with him. He has also stated that on the arrival of his son back, he saw injuries on his neck. Since the medical examination of the complainant took place 20 days after the incident, it was but natural for the doctor (PW-1) not to find any external injury. He however has admitted that complainant was complaining pain on the back side of his neck. Even accused Ramnath (examined as DW-1) and his wife (DW-2) have admitted that on the fateful day the complainant (PW-2) had come to their house. Further, on the memorandum of deceased - accused Dashrath an amount of Rs. 4,750/- and the cloths bought by him through the money so looted, were seized under Ex. P-7. The scarf and *lungi* used for tying the limbs of the complainant were also seized by the prosecution. Thus, the evidence fully establishes that accused/applicant Ramnath hatched a criminal conspiracy facilitating other accused/applicants to commit the offence of loot by intimidating him of his life by putting sword on his neck. In this view of the matter, conviction of the accused/applicants u/s 394 and 120-B IPC does not appear to be off the record and therefore it is maintained.

5. However, looking to the fact that incident had taken place in the year 2001 and thereby more than 18 years have passed-by, and further that the accused/applicants have already remained inside for about 07 months, this Court thinks it proper to reduce the sentence imposed on them to the period already undergone, so that their already settled family life is not landed in crises. Order accordingly.

6. Revision allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge