HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 370 of 2011

Birendra Kumar Yadav, S/o Devnath Singh Yadav, aged about 26 years, R/o Village- Samauddinpur, Police Station Chiraiya Kot, District- Mau (Uttar Pradesh), Present Address: Kailash Nagar, Akta Chauk, House of Punit Deshmukh.

---- Appellant

Versus

State of Chhattisgarh, through Station House Officer, Police Station- Jamul, District- Durg (C.G.)

---- Respondent

For Appellant	:	Mr. B.P. Singh, Advocate.
For State/respondent	:	Mr. Vinod Kumar Tekam, PL.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

04/01/2019

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against judgment dated 19.04.2011 passed by Fourth Additional Sessions Judge, Durg (C.G.) in Session Trial No. 116/2010, wherein the said court convicted the appellant for commission of offence under Sections 489(B) & 489(C) of IPC, 1860 and sentenced to undergo R.I. for 5 years and fine of Rs. 2000/- & R.I. for 3 years and fine of Rs. 2000/- respectively with further default stipulations.

2. As per version of the prosecution, on 14.10.2009 at about 3:30 p.m., the appellant put forward Rs. 22,000/- for depositing in account No. 30407227075 to the Assistant Manager of State Bank of India, Branch Audyogik Nagar Bhilai. When the currency notes were checked, it was found that the same are counterfeit notes. Matter was reported and investigated and during investigation, 24 Nos. currency notes of Rs. 1000/-

denomination, 20 Nos. currency notes of Rs. 500/- denomination & 6 Nos. currency notes of Rs. 100/- denomination, were seized from the appellant. 19 Nos. currency notes of Rs. 1000/- denomination which was tendered for depositing in the said bank account was also seized. After investigation, the appellant was charge-sheeted and after completion of trial, the trial court convicted as mentioned above.

3. Learned counsel for the appellant submits as under:-

(i) Possession of counterfeit currency notes have not been legally proved against the appellant and documents produced before the trial court have also not been legally proved.

(ii) The trial court has utterly failed to appreciate vital omission and contradiction, therefore, finding arrived at by the trial court is not sustainable and the same is liable to be reversed.

4. On the other hand, learned State counsel submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.

5. Niripendra Nath Sarkar (PW-4) is Assistant Manager of State Bank of India, Industrial Branch, Bhilai. As per version of this witness, the appellant tendered 21 Nos. currency notes of Rs. 1000/- denomination and 2 Nos. currency notes of Rs. 500/- denomination for depositing in the bank and when it is checked by ultra-violate machine, the same was prima facie found to be counterfeited that is why he reported the matter. This witness has proved seizure of currency notes from the appellant.

6. From evidence of V.K. Mandalesh, Assistant Sub-Inspector (PW-8) and Sanjay Pundhir, Inspector (PW-9), it is established that 24 Nos. currency notes of Rs. 1000/- denomination, 20 Nos. currency notes of Rs. 500/- denomination and 6 Nos. currency notes of Rs. 100/- denomination, were also seized from possession of the appellant. As per version of these witnesses, the seized currency notes were sealed and sent for examination to Forensic Science Laboratory, Hyderabad and after examination, it was found to be counterfeit. All the witnesses have been subjected to searching cross-examination, but nothing could be elicited in favour of the defence

7. The appellant has plainly denied the offence and did not explain as to how he came into possession of the said currency notes. It was for the appellant to explain the source of receiving the currency notes, but he failed to explain and his version of mere denial is meritless. In absence of explanation, it can be presumed that he had reason to believe that seized currency notes are counterfeit notes. It can be presumed that he kept the same using as genuine. In the present case, the appellant was not only in possession of counterfeit currency notes, but he deposited the currency notes in State Bank of India which shows his intention that he used to deposit the counterfeit currency notes as genuine.

8. It is a case of trafficking of counterfeit currency notes by the appellant which falls within mischief of Section 489 (B) of IPC and knowingly possessing the said currency notes that it may be

used as genuine is punishable offence under Section 489(C) of IPC.

9. The trial court has elaborately discussed the entire evidence and came to conclusion that both the offences are established against the appellant and this Court has no reason to record contrary finding. Argument advanced on behalf of the appellant is not sustainable looking to clinching evidence against him. Conviction of the appellant is hereby affirmed.

Heard on the point of sentence

10. The sentence awarded by the trial court cannot be termed as harsh, disproportionate or unreasonable looking to the gravity of offence and the same is not liable to be interfered with. The sentence part is also not liable to be interfered with. Accordingly, the appeal is liable to be and is hereby dismissed.

11. It is reported that the appellant has suffered full jail sentence and has been released from jail after getting benefit of remission, therefore, no further order of arrest etc. is required.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun