

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 56 of 2012

- Nawsai Munda S/o Basant Munda, aged about 19 years, R/o Bardoni, P.S. Natehar, Distt. Latehar, Jharkhand.

---- Appellant

Versus

- State Of Chhattisgarh Through P.S. Kusmi, District Surguja (C.G.)

---- Respondent

For Appellant	:	None.
For Respondent	:	Mr. KK Dewangan, Dy. G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

26/07/2019

1. By the impugned judgment dated 05/03/2008 passed in S.T. No. 198/2006 by the learned Third Additional Session's Judge (FTC), Ambikapur, District Surguja (C.G.), the Appellant has been convicted for the offence punishable under Section 395 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 10 years and to pay fine of Rs. 500/-, with default stipulation.
2. According to prosecution story, on 19.01.2006, at around 6:30 PM the complainant of the case Amarnath (PW-8) was present in his shop. Allegedly, at that time some unknown persons by covering

their faces entered to his shop, purchased some material and by showing their gun looted Rs. 700-800/-, at the same time brother of the complainant came there and he was shouted, on being saw him one of the assailants fired in the air and tried to flee away from the spot, but in the meanwhile, the Appellant was caught by them. After getting inquired, he spoke the name of other assailants. On the basis of said background, a report has been made by Amarnath (PW-8). During course of investigation, one *Katta* and cartridge were seized from the possession of present Appellant. Statements of other witnesses under Section 161 of Cr.P.C. have been recorded. After completion of investigation, other co-accused persons namely Jagjivan, Swati, Bhadu & Raghunath were declared absconded and thereafter, the charge-sheet has been filed against the Appellant under Section 395 read with 397 of the IPC and Section 25 (1-B) (A) of the Arms Act and other co-accused persons Bhulan under Section 212 of the IPC and Section 25 (1-B)(A) of the Arms Act. To prove the guilt of the Appellant, the prosecution has examined as many as 11 witnesses. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C. was recorded, wherein he has pleaded their innocence and false implication in the matter.

3. After trial, vide judgment dated 05.03.2008 the trial Court has acquitted co-accused Bhulan for the offence punishable under Section 212 of the IPC and Section 25 (1-B)(A) of the Arms Act.

Trial Court has also acquitted the Appellant for offence punishable under Section 25 (1-B) (A) of the Arms Act. However, Trial Court has convicted and sentenced the Appellant for the offence punishable under Section 395 of the IPC and sentenced him as mentioned in paragraph one of this judgment. Hence, this appeal.

4. A certificate of incarceration dated 17.07.2019 sent by the Jail Superintendent, Central Jail, Ambikapur would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released on 04.12.2013.
5. Since no one appears for the Appellants today, I decide this appeal on merits.
6. I have heard Learned Counsel appearing for the State and perused the record to assess the correctness of the impugned judgment of conviction.
7. That, the case of the prosecution is based upon the statement of Amarnath (PW-8), Vijayprasad Gupta (PW-3), Chandradev Prasad (PW-5), Vijay Ram Bhagat (PW-6), Marshal Kujur (PW-10), Rajesh @ Rakesh (PW-11) as well as the statement of investigating officer of the case i.e. Inspector Ravindra Maravi (PW-9). Amarnath (PW-8), complainant of the case has deposed before the Trial Court that on the date of incident, when he was present in his shop, at that time, the Appellant and other

assailants came to his shop, purchased some material, thereafter by showing their gun, looted Rs. 700-800 and tried to fled away from the spot, in the meanwhile, his brother, Marshal and Vijay were come their and caught the present Appellant, other assailants were fled away from the spot. This witness further deposed the fact that after the whole incident, the complainant and other witnesses taken the Appellant to police station and handed over to them. The statement of this witness was duly corroborated by Police Inspector of the case. From the statement of Police Inspector, it is clear that on the date of incident, immediately after the incident, the Appellant had taken by the complainant and others and reported the matter vide Ex.P-8.

8. From the above evidence available on record, it is clear that on the date of incident the Appellant laced with gun along with other assailants had gone to the shop of Complainant Amarnath and looted Rs. 700-800/- from his shop. It is also well established that from the possession of the Appellant live bullets have been seized vide Ex. P-5. There is sufficient evidence available on record against the Appellant. Thus, the learned trial Court has rightly convicted the Appellant.
9. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

**Sd/-
(Arvind Singh Chandel)
Judge**