

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 110 of 2019**

Maiku @ Michael Koi S/o Shri Chainu @ Chaitu Koi, aged about 37 years R/o Ishlam Ganj, P.S. Kotma, Distt. Kotma, At present Nimdha, Marwahi, Distt. Bilaspur (C.G.)

---- Appellant**Versus**

State of Chhattigarh through District Magistrate, Manendragarh, Distt. Koriya (C.G.).

---- Respondent**AND****Criminal Appeal No. 130 of 2019**

Ramashankar Soni s/o Late Dayashankar Soni, aged about 36 years R/o minus Quarter Colony Bijuri, P.S. Bijuri, District Anuppur, Presently R/o Jhunsi Chhatnaag Road, P.S. Jhunsi, Distt. Alahabad (U.P.)

---- Appellant**Versus**

State of Chhattigarh Through Station house Officer, p.S. Jhagrakhand, District Korea (C.G.).

---- Respondent

For Appellant in CRA No. 110/2019	:	Mr. Keshav Dewangan, Advocate
For Appellant in CRA No. 130/2019	:	Mr. Akhtar Hussain, Advocate
For Respondent/State	:	Mr. Alok Nigam, Govt. Adv.

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**20/08/2019**

1. Since both the appeals arise out of impugned judgment dated 13/11/2018 passed by First Additional Sessions Judge, Manendragarh, District Koriya in S.T. No. 73/2014, therefore, they are being decided

by this common judgment.

2. These appeals have been preferred against the judgment dated 13/11/2018 passed in Sessions Trial No. 73/2014 by the First Additional Sessions Judge, Manendragarh, District Koriya (C.G.), whereby the Appellants have been convicted under Sections 450 and 397/34 of the IPC and sentenced to undergo RI for 7 years with fine of Rs. 500/- and RI for 10 years with fine of Rs. 500/-, respectively, with default stipulations.
3. Facts of the case are that on 12/10/2013 at about 12 O'clock, both the Appellants and acquitted accused Heera Singh entered into the house of the Complainant Sheela Tiwari. At that time, they were lashed with arms and weapon. All the accused persons committed loot of ornaments like Ring, Payal Tops Mangalsutra, Atm Card and mobile phones amounting to Rs. 1,20,000/-. The matter was reported by the Complainant vide Ex.P-5. During course of investigation, some of the looted articles, mobile phones and one pistol has been seized from the possession of Appellant Ramashankar and Atm card has been seized from the possession of Appellant Maiku @ Michael. Statement of witnesses have been recorded. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges against the Appellants as well as acquitted accused Heera Singh under Sections 450, 394 and 397/34 of the IPC. Additional charge has been framed against Appellant Ramashankar under Section 25(1-ख)(क) and 27 of the Arms Act. As many as 20 prosecution witnesses have been examined. No defence witness has been examined. Statement of the

Appellants under Section 313 of the Cr.P.C were recorded wherein, they have pleaded their innocence and false implication in the matter.

4. After trial, the trial Court acquitted Heera Singh from all the charges framed against him and convicted and sentenced the Appellants as mentioned in paragraph two of this judgment. Hence, these appeals.
5. Learned Counsel appearing for the respective Appellants submit that they do not want to press this appeal on merits and confines their argument to the sentence part only. They further submit that out of total jail sentence of 10 years, the Appellants have already undergone about 5 years 6 months, they are facing the *lis* since 2013, therefore, they pray that the jail sentence awarded to the Appellants may be reduced to the period already undergone by them.
6. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
7. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
8. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 10 years, the Appellants have undergone about 5 years 6 months years, they are facing the *lis* since 2013 and there is no criminal antecedent against them, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail

sentenced awarded to him is reduced to the period already undergone by him and the fine sentence imposed under Section 450 and 397/34 of the IPC is enhanced to Rs. 25,000/- and Rs. 25,000/- against each of the Appellants. Ordered accordingly. The enhanced amount of fine shall be payable within 2 months from the date of receipt of a copy of this order. In default of payment, the Appellants shall be liable to undergo RI for 6 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.

9. Consequently, the appeal is partly allowed to the extent indicated above.
10. It is reported that the Appellants/accused are in jail. They be released, forthwith, if not required in any other case.
11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge