

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 4 of 2011**

Prahlad Singh S/o Tilak Singh, aged about 21 years R/o Village Majhagwa,
Chowki Belgahna, Distt. Bilaspur (C.G.).

---- Appellant**Versus**

State of Chhatisgarh through District Magistrate, Bilaspur, Distt. Bilaspur (C.G.)

---- Respondent**AND****Criminal Appeal No. 80 of 2011**

Devbhanu S/o Tulsingh Bhanu, aged about 20 years R/o Village Pandra Pathra
Chowki Belgahna, District Bilaspur (C.G.)

---- Appellant**Versus**

State of Chhatisgarh through the Police Station Gaurell, District Bilaspur (C.G.)

---- Respondent

For Appellant in CRA No. 04/2011	:	Mr. Sunil Sahu, Advocate
For Appellant in CRA No. 80/2011	:	Mr. Amit Sahu, Advocate
For Respondent	:	Mr. Amit Singh, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board**17/07/2019**

1. Since both the appeals arise out of same Sessions Trial number, therefore, they are being decided by this common Judgment.
2. These appeals have been preferred against the judgment dated 24/12/2010 passed in Sessions Trial No. 35/2010 by the Additional Sessions Judge, (FTC), Pendraroad, whereby the Appellants have

been convicted under Section 393/34 of the IPC and sentenced to undergo RI for 3 years with fine of Rs. 100/- with default stipulations.

3. Facts of the case are that on 06/07/2010 at about 8:00 pm, two persons came to the house of the Complainant Saval prakash. Out of those two persons, one, who has covered his face by a towel, put on *Katta* towards the Complainant. The Complainant suddenly caught hold his hand and pushed his hand upside and shouted *Chor-Chor*. Both the Appellants ran away from the spot. The neighbors of the Complainant chased the Appellants and caught them. A report was made by the Complainant. On the basis of said, offence has been registered under Section 393 and 397/34 of the IPC. Statements of witnesses under Section 161 of the Cr.P.C were recorded. After investigation, a charge-sheet has been filed against the Appellants. Charges were framed under Section 393/34 and 397/34 of the IPC. As many as 7 witnesses have been examined. No defence has been examined. Statements 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 learned trial Court has acquitted the Appellants from the charge framed under Section 397/34 of the IPC, however, they have been convicted and sentenced as mentioned in paragraph one of this judgment. Hence, these appeals.
5. Learned Counsel appearing for the respective Appellants submit that they do not want to press these appeals on merits and confines their argument to the sentence part only. They further submit that out of

total jail sentence of 3 years, the Appellants have undergone about 6 months as they were in jail since 08/07/2010 to 05/09/2011, they are facing the *lis* since 2010, there are no criminal antecedents against the Appellants, therefore, it is prayed 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 3 years, the Appellants have undergone about 6 months, they are facing the *lis* since 2010 and there are no criminal antecedents 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 them is reduced to the period already undergone by them and the fine sentence imposed under Section 393/34 of the IPC is enhanced to Rs. 10,000/- 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 appeals are partly allowed to the extent indicated

above.

10. It is reported that the Appellants/accused are on bail. Their bail bonds are not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
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

Rahul