

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRIMINAL APPEAL 852/2007**

(Arising out of judgment of conviction and order of sentence dated 3-9-2007 passed by Addl. Sessions Judge, Pendraroad, Distt. Bilaspur (CG) in Sessions trial No. 351/2006)

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Kanhaiya Sahu, aged about 35 years, son of Jaggu Sahu, resident of Bacharwar, PS Pendra, Distt. Bilaspur (CG)

---Appellant**-VERSUS-**

State of Chhattisgarh through P.S. Gaurela, Distt. Bilaspur (CG)

---Respondent

For appellant	: Mr. Shashi Kumar, Adv.
For respondent/State	: Mr. Vinod Tekam, PL.

Hon'ble Shri Sharad Kumar Gupta, Judge

JUDGMENT ON BOARD**2-4-2019**

1. In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 3-9-2007 passed by Addl. Sessions Judge, Pendraroad, Distt. Bilaspur (CG) in Sessions trial No. 351/2006 whereby and whereunder he convicted the appellant under Section 436 of the Indian Penal Code, 1860 (in brevity 'IPC') and sentenced him to undergo RI for 5 years and fine of Rs. 500/-, in default of payment of fine to further undergo RI for 3 months.

2. In brief the prosecution story is that on 4-6-2006 in night at 2.30 am, appellant burnt the barn of the house of the complainant Maiku as a result of which the straw kept in the barn and two buffaloes tied there also partially burnt. In the incident he sustained a loss of about Rs. 25,000/-. The complainant lodged FIR Ex. P-6 in PS Pendra on the same day. After completion of investigation, a charge sheet was filed against him. The trial Court framed the charge against him under Section 436 of the IPC. After completion of trial, trial Court convicted and sentenced him as aforesaid.

3. Being aggrieved the appellant has preferred this criminal

appeal.

4. Counsel for the appellant argued that Trial Court has not appreciated the evidence in proper perspective. Thus, the conviction and sentence of the appellant are bad in eyes of law. Hence, appellant may be acquitted of the aforesaid charge.

5. Counsel for the State argued that the conviction and sentence of the appellant are based on clinching evidence. The conviction and sentence of the appellant do not call for any interference by this Court.

6. P.W. 1 Maiku says in para 2 and 3 of his statement given on oath that appellant was running away after burning the straw. His straw and buffaloes burnt.

7. P.W. 2 Vishwanath Prasad says in para 2 of his statement given on oath that he saw that at the place of incident his father had caught hold appellant. Due to fire a damage of Rs. 25,000/- was caused.

8. P.W. 3 Kishan says in para 2 of his statement given on oath that he saw that appellant was caught hold by his brother and his father.

9. P.W. 4 Nandlal Singh says in para 2 of his statement given on oath that villagers had encircled the the appellant.

10. P.W. 5 Dhaniram says in para 2 of his statement given on oath that people had caught hold the appellant on the spot.

11. P.W. 6 Padam Pratap Singh says in para 2 of his statement given on oath that people had caught hold the appellant at the spot.

12. As per alleged FIR Ex. P-6 complainant had seen that appellant was running away after burning. His straw and buffaloes were burnt.

13. There is no such evidence on record on the strength of which it can be said that aforesaid statements of aforesaid witnesses are not simple, not natural and not normal.

14. Looking to the aforesaid facts and circumstances, this Court finds that prosecution has succeeded to prove the charge punishable under Section 436, IPC against the appellant.

15. Thus, this court finds that trial Court has not committed any illegality in convicting and sentencing the appellant as aforesaid. Hence, the appeal deserves to be dismissed. The appeal is accordingly dismissed. The conviction and sentence of the appellant under Section 436, IPC are hereby affirmed.

16. As per the report of the office of the Jail Superintendent, Central Jail, Bilaspur dated 24-11-2018, the appellant has been released on 27-4-2010 after getting the benefit of remission extended to him. Thus, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge