

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 25-1-2019

Delivered on 11-2-2019

Criminal Appeal No. 501 of 2011

- Ali Kaushar s/o. Fazal Hussain, aged 39 years, r/o. Village Khami, Police Station Lormi, Dist. Bilapur (CG).

---- Appellant**Versus**

The State of Chhattisgarh Through Police Station Lormi, Dist. Bilapur. (CG).

---- Respondent

For the appellant : Mr. Rajendra Patel, Advocate

For the respondent/State : Mr. Ravish Verma, Govt. Adv.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV Judgment**

1. This appeal is directed against the judgment of conviction and order of sentence dated 27-6-2011 passed by the Additional Sessions Judge, Mungeli, Dist. Bilapur (CG) in Sessions Trial No. 9 of 2011 wherein the said Court convicted the appellant for the commission of offence under Section 489-A of the IPC and sentenced him to undergo rigorous imprisonment for ten years and to pay fine of Rs.1000/- with default stipulations.

2. In the present case, date of incident is 29-10-2010. J.P. Dubey (PW/3) was posted as Assistant Sub Inspector at Police

Station Lormi and he received information by informer (Mukhbir) that the appellant is in possession of counterfeit currency notes in bulk. He rushed to the house of the appellant and after searching the house he seized currency notes 81 in number of Rs.500/- denomination which were kept in the bed of the appellant. The matter was reported to the Police Station and after completion of investigation charge sheet was filed, the appellant did not plead guilty and the trial was conducted. After completion of trial, the trial Court convicted and sentenced the appellant as aforementioned.

3. Learned counsel for the appellant submits as under:

- I) Seizure of counterfeit notes is not established from the possession of the appellant and it is also not established that the appellant had reason to believe that currency notes are counterfeit.
- II) Seizure witnesses have not supported the version of Police Officer, therefore, conviction on the basis of statement of the Police Officer is not sustainable.
- Iii) It is also not established that the house in question was in sole possession of the appellant, therefore, finding of the trial Court is liable to be reversed.

4. On the other hand, learned counsel for the State submits that the finding recorded by the trial Court is based on proper

marshaling of evidence and the same is not required to be interfered while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused the material available in the record.

6. PW/3 J.P. Dubey, Asst. Sub Inspector deposed before the trial Court that he searched the house of the appellant where 81 currency notes of Rs.500/- denomination were found in the house of the appellant which were series of 2DF 936670 (39 notes) and series of 3LL 733821 (42 notes). Version of this witness is subjected to searching cross-examination, but remained unshaken. Currency notes seized in the present case were sent to Reserve Bank of India for examination and as per report (Ex.P/6), authority of Reserve Bank of India found that notes seized in the present case to be Xerox copy of currency notes which were forged. Though the seizure witnesses namely Hussain (PW/1) and Ram Kaushik (PW/2) have not supported the version of prosecution, but the fact remains that if they were not present on the spot, they are not real witnesses and if they were present on the spot and suppressed the fact before the trial Court, they are not reliable witnesses. It is settled law that quality of the evidence has to be seen, not the quantity. Punch witnesses turned hostile for the reasons best known to them. Looking to their obligation they cannot be relied and from their statement version of the Police Officer is not rebutted. It is

settled law that version of the Police Officer cannot be discarded merely because he is a Police Officer but he should be capable of same footing that of any independent witness. Appellant has not offered any explanation for possession of forged or counterfeit currency notes. His version is simple denial which is merit-less. In absence of explanation it can be easily inferred that he received the forged currency notes knowingly or intentionally but the same is forged or counterfeit, otherwise, 81 number of counterfeit notes would not have been in possession of the appellant, it can be easily inferred that he was in possession of the said notes for using the same to be genuine, therefore, the act of the appellant falls within mischief of Section 489-A of IPC for which the trial Court convicted him and this court has no reason to substitute the contrary finding. Conviction of the appellant is hereby affirmed.

7. Heard on the point of sentence.

The trial Court awarded rigorous imprisonment for three years which cannot be termed as harsh, unreasonable or disproportionate. Sentence part is also not liable to be interfered.

8. Accordingly, the appeal being devoid of merits is liable to be and is hereby dismissed. The appellant is reported to be in jail, therefore, no further arrest for his arrest etc., is required.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Raju