

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 89 of 2011

Chandrabhas @ Chandra S/o Shri Rekhilal Sahu, aged about 22 years R/o Matarodih, Chowki Machandur, P.S. Utai, District Durg (C.G.)

---- Appellant

Versus

State of Chhattisgarh, through District Magistrate, Durg, District Durg (C.G.)

---- Respondent

For Appellant	:	None.
For Respondent	:	Ms. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

01/10/2019

1. By the impugned judgment dated 30/11/2010 passed in Session Trial No. 70/2010 by the Additional Sessions Judge, (FTC) Durg (C.G.), the Appellant has been convicted under Sections 394 & 450 of the IPC and sentenced to undergo rigorous imprisonment for 7 years with fine of Rs. 1,000/- & rigorous imprisonment for 3 years with fine of Rs. 500/-, respectively, with default stipulations.
2. Facts of the case are that on 12/02/2010 Kaushaliya Bai (PW1) after taking meal in the night had gone for sleep. Thereafter, someone came on her door by saying "*Bhagwan Ka Prasad Le Lo*". Anand (PW2) opened the door and look outside, but no one was there. It is alleged that thereafter the Appellant entered into the room of Kaushaliya from roof and when Anand Ram attempted to caught him, then the Appellant assaulted him by a sharp edged weapon on his

neck. Kaushaliya Bai also tried to intervene, but the Appellant through chilly powder on her eyes and caused injury. Thereafter, he looted gold ornaments from Kaushaliya Bai and fled away from there. A report has been lodged by Kaushaliya Bai and on that basis, offence has been registered. During course of investigation, sleeper and wooden cap of the Appellant were seized from the spot. On the basis of memorandum statement of the Appellant, looted articles along with one sharp edged weapon were also seized from his possession. Articles as well as the Appellant has been duly identified by the Complainant during test identification parade. After completion of investigation, a charge-sheet has been filed. Learned trial Court framed the charges under Section 394 and 450 of the IPC. As many as 9 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Durg dated 25/09/2019 would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released 15/11/2014.
5. Since no one appears for the Appellant 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. Kaushaliya Bai (PW1) and Anand Ram (PW2) have deposed before the trial Court that on 12/02/2010 at about 10-11 pm, the Appellant entered into their house and assaulted both of them by a knife and looted gold ornaments from Kaushaliya Bai which she was wearing. Both the above witnesses have remained firm during their cross examination. FIR has also been lodged promptly just after the incident. Apart from this, as stated by Ramswaroop Dewangan (PW9), he recorded memorandum statement of the Appellant vide Ex.P-14 and seized looted articles vide seizure memo Ex.P-16. Seized articles were duly identified by the Complainant during identification vide Ex.P-5. From the statement of Dr. Yashwant Rao (PW5) and MLC report of Kaushaliya Bai and Anand Ram, it is also established that both had sustained injuries on their bodies.
8. From the entire evidence adduced by the prosecution, it is well established that the Appellant entered into the house of the Complainant and looted gold ornaments and during the said act, he assaulted both of them. Thus, the finding of the trial Court is in accordance with the evidence available on record and the said Court has rightly convicted and sentenced the Appellant.
9. Consequently, I do not find any merit in this appeal. The same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge