

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 111 of 2011

1. Motilal Sahu S/o Rupuram Sahu, aged about 40 years, Occupation Work of S.B.N. Insurance, R/o Village Joratarai, Police Station Bhakhara, Distt. Dhamtari (C.G.)
2. Mannuram Sahu S/o Late Shri Sukhram Nishad, aged about 48 years, Occupation Workshop of Lathe Machine owned by him R/o Village Budankala, Police Station Mohan Nagar, Distt. Rajnandgaon (C.G.)
Present Address Bathena Ward, House of Prakashchand Sahu, Dhamtari, Distt. Dhamtari (C.G.)

---- Appellants

Versus

State of Chhattisgarh Through Police Station Kumhari, Distt. Durg (C.G.)

---- Respondent

For Appellants	:	Mr. Samir Singh
For Respondent	:	Mr. Amit Singh, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

25/07/2019

1. By the impugned judgment dated 31/12/2010 passed in Sessions Case No. 132/2008 by the Additional Sessions Judge, Durg, Distt. Durg (C.G.), the Appellants have been convicted under Section 25 (1B)(a) of the Arms Act, 1959 and sentenced for imprisonment already undergone by them and to pay fine of Rs. 5000/- each with default stipulation.
2. As per prosecution story, on 07/02/2008, Virendra Chaturvedi (PW10) received an information from the informant that a person, carrying a plastic bag in his hands, is standing near Local Toll Plaza and appears as doubtful. He reached to the spot along with his staff and eye was kept on

the activities of the person indicated by the informant. The person indicated by the informant proceeded towards Kumhari Basti and thereafter attempted to hide himself near Sanjay Nagar Pani Tanki. He was caught by the police official. In interrogation, he disclosed his name Motilal Sahu. In search of the plastic bag, one set of walky-talky, one charger, a ball of plastic wire, three sets of transistor, one iron made pistol 315 bore and four forms related to naxal activities were seized from him vide seizure Ex.P.-5. His memorandum statement was also recorded vide Ex.P-4. On the basis of his memorandum statement, Appellant no. 2 was taken into custody and his memorandum statement was recorded vide Ex.P-9. On the basis of his memorandum statement, one pistol and other articles were seized vide Ex.P.10. Offence has been registered against both of them. Statement of witnesses have also been recorded. After investigation, a charge-sheet has been filed against the Appellants. Co-accused Hanumat and Ravi were declared absconded. Trial Court framed the charges for the offence punishable under Section 25 of the Arms Act, Section 3 of the Indian Telegraphy Act, Section 124-A of the IPC and Sections 3 &, 4 & 8 of the Vishesh Jan Suraksha Adhiniyam 2005. As many as 10 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellants under Section 313 of the Cr.P.C was recorded wherein they have pleaded their innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Counsel appearing on behalf of the Appellants submits that the trial Court has not properly appreciated the facts and evidence while passing the

impugned order. The trial Court has also failed to appreciate the evidence of prosecution witnesses. Seizure witnesses have not supported the case of the prosecution and the conviction is only based upon the statement of Investigating Officer and other interested witnesses.

5. Counsel appearing on behalf of the State supported the impugned judgment and submits that the Appellants have been rightly convicted.
6. I have heard counsel for the parties and perused the record of the trial Court.
7. Regarding seizure of articles made from the Appellants, Virendra (PW10) has stated in his Court statement that on the basis of information received from the informant, he reached to the spot along with his staff. He chased the suspect i.e. Appellant No. 1 and caught hold him. As stated by this witness, vide seizure memo Ex.P-5, he seized one pistol of 315 bore and other articles from Appellant No. 1. This witness has further stated that on the basis of memorandum statement of Appellant No. 2, he also seized one Katta of 12 bore and other articles vide seizure memo Ex.P.10 from him. Though witnesses of the seizure Dhanushlal (PW1), Ramjanam Chaourasiya, Akhilesh Singh (PW3), Suresh Kumar Yadav (PW4), Hemant Gupta (PW5) and Asfaq Hussain (PW6) have not supported the case of the prosecution and have turned hostile, Virendra (PW10) has categorically stated that vide seizure memos Ex.P-5 and Ex.P-10, he has seized the above articles from the Appellants. In his cross examination also, there is nothing on that basis his statement can be discarded. Merely this witness is Investigating Officer or Police Officer, his statement cannot be discarded. The seized Katta and pistol

have been dully inspected by Jaypal Sahu (PW8). His report is Ex.P-12. As opined by him, the Katta and pistol were in active condition. Apart from this, vide Ex.P.20-1, sanction for prosecution has been duly obtained from District Magistrate.

8. On minute examination of the above evidence, it is clear that seizure of articles have bee duly proved. From the statement of Jaypal Sahu (PW8), it is also established that the weapons were in action condition. Vide Ex.P.-8 proper sanction has been accorded from the competent authority. Thus, the finding of the trial Court is in accordance with the evidence available on record. Therefore, the trial Court has rightly convicted the Appellant. With regard to the sentence part, the trial Court has convicted the Appellants only for imprisonment already undergone by them and fine, which in my considered opinion is also just and proper.
9. From the above evidence available on record, it is clear that the seized articles have been proved as belonging of the Appellants. Moreover, from the statement of Jaypal Sahu (PW8) the weapons were in active condition and from Ex.P.20, it is also established that proper sanction has been obtained from the competent authority, thus, the finding of the trial in this regard is just and proper and the trial Court has rightly convicted the Appellants.
10. Consequently, I do not find any merit in this appeal. The same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge