

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 5-2-2019

Delivered on 15-3-2019

CRA No. 410 of 2012

- Kamleish Kumar Tandon s/o. Cheduram Tandon, aged 30 years, r/o.village Tanod, P.S. Shivrinarayan, Dist. Janjgir Champa (CG).

---- Appellant

Versus

- State of Chhattisgarh Through P.S. Shevrinarayan , Distt. Janjgir Champa C.G.

---- Respondent

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CRA No. 491 of 2012

- Budhan Karsh S/o Rameshwar Karsh, R/o Village Khorsi, P.S. Sheorinarayan, Distt. Janjgir-Champa C.G.

---- Appellant

Versus

- State of Chhattisgarh Through Police Station Sheorinarayan, Distt. Janjgir -Champa C.G.

---- Respondent

For Appellants	Mr. Bharat Rajput Advocate appears as Amicus Curiae
For respondent : State	Mr. V.B. Singh, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Judgment

1. As both the appeals arise out of same incident, they are heard analogously and are being disposed of by this common judgment.
2. Both the appeals are preferred against the judgment dated 19-4-2012 passed by the Additional Sessions Judge, Janjgir, District

Janjgir-Champa (CG) in Session Trial No. 246 of 2011 wherein the said Court has convicted the appellant Kamlesh Kumar Tandon for the commission of offence under Section 489-C of the IPC and sentenced him to undergo RI for five years and to pay fine of Rs.1000/- with default stipulations and convicted the appellant Budhan Karsh for the commission of offence under Sections 489 (B) and 489(C) and sentenced him to undergo RI for five years and to pay fine of Rs.1000/- on each count with default stipulations.

3. As per version of prosecution, on 12-09-2011 complainant Rampal Sahu gave a complaint that appellant Budhan asked him for change of Rs.100/- on which complainant denied. Thereafter on 13-9-2011 one Ramratan and Timan Kotwar told that the appellant is running counterfeit currency notes of Rs.100/- of same number. During investigation appellant disclosed that he got the notes from appellant Kamesh Kumar Tandon. Police registered the case against both the appellants and thereafter counterfeit currency notes 242 in number of Rs. 100/- denomination were seized from them. Seized counterfeit currency notes were sent to Currency Note Press, Nashik which found the said seized notes to be counterfeit currency notes. The matter was reported and investigated. After completion of investigation charge sheet was filed, the appellants did not plead guilty and the trial was conducted. After completion of trial, the trial Court convicted and sentenced the appellants as aforementioned.

4. Learned counsel for the appellants would submit as under:

- i) The trial court has not considered the statement of the witnesses properly and finding of the trial court is not sustainable.
- ii) The trial Court has not evaluated the omissions and exaggerations in the statement of the prosecution witnesses which makes the case doubtful.
- iii) Finding of the trial Court is not based on factual matrix and legal aspect of the matter, therefore, the same is liable to be set aside.

5. On the other hand, learned counsel for the respondent/State would submit that the finding of the trial Court is based on proper marshaling of the evidence and the same is not liable to be interfered while invoking the jurisdiction of the appeal.

6. I have heard learned counsel for the parties and perused record of the court below in which impugned judgment is passed.

7. PW/7 R.K. Shukla, Station House Officer deposed before the trial Court that on discovery statement of appellant Budhan he seized currency notes of Rs.100/- denomination four in number of one serial number and six in number of other serial number, in all ten currency notes. He further deposed that appellant Kamlesh Kumar Tandon gave

discovery statement before him and on his discovery statement six currency notes of Rs.100/- denomination of one serial number and one currency note of Rs.100/- denomination of other serial number were seized from him. As per version of this witness, on discovery statement of one co-accused Gyan Das, currency notes of Rs.100/- denomination 75 in number of one serial number, 75 in number of other serial number and 75 in number of some different serial number were seized from him. From statement of this witness, all 242 currency notes of Rs.100/- denomination were sent through Superintendent of Police Janjgir to Currency Note Press, Nashik for examination and as per report Ex.P/39, all the currency notes were found to be counterfeit.

8. PW/8 Naukhilal is a constable who deposited 242 currency notes of Rs./100/- denomination seized in the case to Government Currency Note Press, Nashik. Both witnesses have been subjected to searching cross-examination, but nothing could be elicited in favour of defence. From the reports Ex.P/38 & P/39, it is established that seized articles were counterfeit currency notes. Appellants were under obligation to explain as to how they came in possession of counterfeit currency notes, but they did not explain anything and their version is mere denial which is merit less. From the evidence of-both witnesses, it is established that the appellants received counterfeit currency notes and they are exchanging the same that it is why it can be inferred that they kept the same for using it to be genuine.

9. Looking to the clinching evidence, argument advanced on behalf of the appellants is not sustainable. This court has no reason to substitute contrary finding. Receiving the counterfeit currency notes and keeping the same for using it as genuine is punishable under Sections 489(B) and 489(C) of IPC for which the trial Court convicted them. The sentence awarded by the trial Court cannot be termed as harsh, disproportionate or unreasonable. Sentence part is also not interfered with.

10. Accordingly, the appeals being devoid of merit are liable to be and are hereby dismissed. The appellant Kamlesh Tandon is reported to be in jail, therefore, no further order for his arrest etc., is required. From the report of the jail authorities, it appears that the appellant Budhan Karsh has been released from jail after getting remission on 31-10-2014, therefore, no further order for his arrest is required.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju