

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRA No. 1017 of 2013**

Vinod Prajapati S/o Ashok Prajapati S/o Ashok Prajapati, aged about 23 years  
R/o Sakola, Police Station Ambikapur, Distt. Sarguja (C.G.).

**---- Appellant**

**Versus**

State of Chhattisgarh Through the Station Hosue Officer, Police Station  
Ambikapur, District Sarguja (C.G.)

**---- Respondent**

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| For Appellant  | : | None.              |
| For Respondent | : | Mr. Amit Singh, PL |

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Hon'ble Shri Justice Arvind Singh Chandel

**Judgment on Board**

**23/07/2019**

1. By the impugned judgment dated 10/07/2013 passed in Sessions Trial No. 36/2012 by the First Additional Sessions Judge, Ambikapur (Sarguja), the Appellant has been convicted under Section 394/397 read with Section 34 of the IPC and sentenced to undergo RI for 7 years and to pay fine of Rs. 1000/- with default stipulation.
2. Facts of the case are that on 05/06/2018 at about 08:30 pm, Complainant Umesh Tiwari (PW1) was going towards Ambikapur. When he crossed the canal of Mendrakala, on the way two persons who had covered their faces, stopped him. They assaulted him and looted Rs. 12000/- cash, two mobile phones and his motorcycle bearing registration No. CG15 CA 3565. The matter was reported by him vide Ex.P-1. The Complainant was medically examined by Dr. K.

R. Tekam (PW2). During course of investigation, on the basis of memorandum statement of the Appellant, one motor cycle was seized from his possession. Other stolen articles have been seized from the possession of co-accused Milan @ Nagendra. Statement of witnesses under Section 161 of the Cr.P.C were recorded. After completion of the investigation, a charge-sheet has been filed. Since, co-accused Milan was not present, therefore, he was declared absconded. Charges were framed against the Appellant. Total 5 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C was 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, Ambikapur would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released 25/01/2015
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. Complainant Umesh Tiwari (PW1) in his court statement has categorically stated that on the date of incident when he was returning

towards Ambikapur near canal, two persons stopped him, one assaulted him by a sword (Talwar), due to that he sustained injuries on his head. He further deposed that both the persons looted his wallet, his motor-cycle and Rs. 12000/- cash and fled away from the spot. Thereafter, he reported the matter vide Ex.P-1. This witness has been medically examined by Dr. K.R. Tekam (PW2). His report is Ex.P4. As per MLC report, Complainant Umesh sustained two injuries on his body. Though, the Complainant has not identified the Appellant and also Rajendra Singh (PW3) and Santosh Goswami (PW4) have not supported the case of the prosecution with regard to memorandum statement of the Appellant and seizure made from him, but the Investigating Officer of the case Satish Sonwani (PW5) has stated that during course of investigation on 19/02/2008, he recorded memorandum statement of Appellant Vinod vide Ex.p.-6 and on the basis of his memorandum statement, he seized looted motor-cycle from his possession. The above statement of the Investigating Officer has not been rebutted during his cross-examination. Therefore, finding of the trial Court in this regard is in accordance with the evidence available on record and the trial Court has rightly convicted the Appellant.

8. Consequently, I do not find any merit in this appeal. The same is dismissed.

**Sd/-  
(Arvind Singh Chandel)  
Judge**