

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 196 of 2016**

1. Aaftab S/o Ali Hussain, aged about 32 years R/o Palasmani, Police Station Bahadur Ganj, Distt. Kishanganj (Bihar),
2. Mohammad Najrul S/o Usman, Aged about 27 years R/o Palasmani Police Station Bahadur ganj, Distt. Kishanganj (Bihar)

---- Appellants**Versus**

State of Chhattigarh Through Police Station GRP, Distt. Raipur (C.G.).

---- Respondent

For Appellants	:	Mr. J.K. Gupta, Advocate
For Respondent	:	Mr. Sushil Sahu, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****04/09/2019**

1. This appeal has been preferred against the judgment dated 18/12/2015 passed in Special Trial No. 121/2015 by the Special Judge (CBI), Raipur (C.G.), whereby Appellant Aaftab has been convicted under Sections 328 (3 times) and 379 of the IPC and sentenced to undergo RI for 7 years (3 times) with fine of Rs. 1000/- (3 times) and RI for 3 years with fine of Rs. 500/-, respectively, with default stipulations. Likewise, Appellant Mohammad Najrul has been convicted under Sections 328 (3 times) and 379 (2 times) of the IPC and sentenced to undergo RI for 7 years (3 times) with fine of Rs. 1000/- (3 times) and RI for 3 years (2 times) with fine of Rs. 500/- (2 times), respectively, with default stipulations

2. Facts of the case are that on 14/04/2015 Complainant- Ranjit Sao (PW4) along with his friends namely Bharat Manna, Vinay Mandal, Pashan Mandal and Mijan Sheikh was traveling in coach number S-1 from Mumbai to Hawda. Their births were from 33 to 38 in the said coach. The Appellants, on the basis of ticket of the Complainant, seated on the births of the Complainant and developed friendship with them. During traveling from Durg to Raipur, it is alleged that the Appellants offered them Fruti in which some intoxicated substance was mixed. The Complainant and his friends consumed the said Fruti and became unconscious. Thereafter, the Appellants had stolen their wallets in which Rs. 11,000/- and ID cards were kept. The Complainant and his friends were found in unconscious condition in the coach at Bilaspur Station. They were admitted in District Hospital, Bilaspur. Thereafter, Ranjit Sao (PW4) lodged FIR (Ex.P-10) on 16/04/2015 against the Appellants. During course of investigation on the basis of memorandum statement of the Appellants, stolen wallets with cash and ID cards were seized from the Appellants. Statement of the witnesses under Section 161 of the Cr.P.C were recorded. After completion of the investigation, a charge-sheet has been filed. Trial Court framed the charges against the Appellants. As many as 10 prosecution witnesses have been examined. Statements of the Appellants under Section 313 of the Cr.P.C were recorded, wherein they have pleaded their innocence and false implication in the matter. No defence witness has been examined.
3. After trial, the trial Court has convicted and sentenced the Appellants as mentioned in the first paragraph of this judgment. Hence, this

appeal.

4. Learned Counsel appearing for the Appellants submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that out of total jail sentence of 7 years, the Appellants have already undergone about 4 ½ years, they are facing the *lis* since 2015 and they have no criminal antecedent, therefore, he prays that the jail sentence awarded to the Appellants may be reduced to the period already undergone by them
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that Appellant have undergone about 4 ½ years, they are facing the *lis* since 2015 and they have no criminal antecedent, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail sentenced awarded to them is reduced to the period already undergone by them and the fine sentence imposed upon Appellant Aftab under Section 328 (3 times) of the IPC is enhanced to Rs. 30,000/- (3 times) and under Section 379 of the IPC is enhanced to Rs. 10,000/-, respectively, total Rs. 1,00,000/-. Likewise, the fine sentence imposed upon Appellant Mohammad Najrul under Section 328 of the IPC is enhanced to Rs. 30,000/- (3 times) and under

Section 379 (2 times) is enhanced to Rs. 5,000/- (2 times), total Rs. 1,00,000/-, respectively. Ordered accordingly. The enhanced amount of fine shall be payable within 2 months from the date of receipt of a copy of this order. In default of payment under Section 328 of the IPC, the Appellants shall be liable to undergo RI for 6 months and under Section 379 RI for 3 months.. If any amount has already been deposited towards fine sentence, the same shall be adjusted in the amount of fine imposed/enhanced today.

8. Consequently, the appeal is partly allowed to the extent indicated above.
9. It is reported that the Appellants are on bail. Their bail bonds are not discharged at this stage and the same shall remain operative for a further period of 6 months in light of Section 437-A of the Cr.P.C.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge