

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 793 of 2015**

- Sandeep Kumar Gond S/o Chamar Singh Gond, Aged About 18 Years, R/o Navdha Chowk, Rajkamma Pali, District- Korba, Chhattisgarh

---- Appellant**Versus**

- State Of Chhattisgarh, Through Police Station- Kotwali, District Korba, Chhattisgarh

---- Respondent

For Appellant : Smt. Smita Jha, Advocate.

For Respondent/State: Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Judgment on Board

30/01/2019

1. This appeal has been preferred against judgment dated 21-11-2014 passed by the Additional Sessions Judge, Korba, District Korba, C.G. in S.T. No. 05/2013 convicting the appellant under Section 307/34 and Section 394/34 of the IPC and sentencing him with R.I. for 5 years and R.I. for 7 years along with fine Rs.5000/- and Rs.5000/- with default stipulations and direction that both the jail sentences shall run concurrently.
2. The prosecution case, in brief, is this, that, on 28-07-2012 at about 8 p.m. the appellant and two others co-accused persons stopped the complainant Gangaram (PW-3) injured him with a sharp edged weapon and looted him of his possessions, mobile phone and cash. Injured Gangaram (PW-3) was admitted to hospital for treatment. On request made, dying declaration of victim Gangaram (PW-3) was recorded and on the basis of the information given therein, one

numbered FIR was lodged against this appellant and the co-accused persons. The case was investigated and the appellant and the co-accused persons were apprehended. Seizure of clothes from the victim (PW-3) was made vide Ex.-P/4. At the instance of appellant vide his memorandum statement Ex.-P/4 (II), mobile and a knife was recovered and seized vide Ex.-P/6. Similarly, other articles were also recovered from the co-accused persons at their instance vide their memorandum statements. The seized articles were subjected to test identification vide Ex.-P/8 and were identified by the witness. The complainant was medically examined and treated. After completion of the proceeding of investigation, charge sheet was filed before the concerned Court.

3. The appellant and the co-accused persons were charged with offence under Section 394/34 and Section 307/34, to which they denied and prayed for trial.
4. After completion of the prosecution evidence, the appellant and the co-accused persons were examined under Section 313 of the Cr.P.C., in which they denied all the incriminating evidence against them, pleaded innocence and false implication. No witness was examined in defence.
5. After completion of the trial, the impugned judgment has been passed wherein the appellant has been convicted and sentenced as aforementioned and the co-accused persons have been acquitted of the charges against them.
6. It is submitted by learned counsel for the appellant has been erroneously convicted by the trial Court without there being reliable

and trustworthy evidence of the prosecution, hence, conviction of the appellant is bad in law. It is also submitted that the appellant has been released from jail after completion of the sentence of imprisonment imposed upon him by the trial Court, however, to restore the prestige of the appellant this appeal may be allowed.

7. Learned counsel for the State/respondent opposes the grounds raised in the appeal and the submission made in this regard and submits that the prosecution has proved its case beyond reasonable doubt. Therefore, the appeal may be dismissed.
8. Heard learned counsel for the parties and perused the record of the trial Court.
9. Perused the entire evidence present in the record of the trial Court and after closely scrutinizing the same, I am of this opinion that the trial Court has not committed any error in convicting the appellant for the offences as aforesaid and in sentencing him accordingly. Therefore, this appeal is without any substance, hence, the same is accordingly dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge