

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 932 of 2014

1. Japeshwar @ Jati S/o. Sardhakar aged about 50 Years R/o. Village-Gaurbahari, P.S. Tamnar, Civil & Rev. District-Raigarh, Chhattisgarh
2. Smt. Shanti Sheikh W/o. Japeshwar aged about 45 Years R/o. Village-Gaurbahari, P.S.-Tamnar, Civil & Revenue, District : Raigarh, Chhattisgarh

---- Appellants

Versus

- State of Chhattisgarh Through The District Magistrate, Raigarh, Chhattisgarh

---- Respondent

For the Appellant : Mrs. Indira Tripathi, Advocate.

For the State/Respondent : Mr. Lav Sharma, PL.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Judgment on Board

09/01/2019

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 3.7.2014 passed by the learned 1st Additional Sessions Judge, Raigarh, District-Raigarh (CG) in Sessions Trial No.67/2013 convicting the accused/appellant under Sections 420/34 & 326 (B) / 34 of the Indian Penal Code (for short 'the IPC') and sentencing him to undergo RI for 7 years with fine of Rs.5,000/- and RI for 7 years with fine of Rs.5,000/-, with usual default clauses, respectively. Both the sentences have been directed

to run concurrently.

2. The prosecution case, in brief, is this that on 11.2.2013 appellant No.1 gave inducement to the daughter of complainant Ashok Pradhan PW-1 that he is in possession of a gold vessel which he will keep as security and obtained Rs.10,000/- from her in loan. As the gold vessel could not be handed over to the complainant, therefore, appellant No.1 and his wife i.e. appellant No.2, made a refund of Rs.4,000/- to the complainant with the promise that balance amount of Rs.5,000/- will be repaid later on. It is further alleged that on 17.2.2013 when the complainant visited the house of appellants and demanded back the loan amount, the appellants threw acid upon the complainant as a result of which face of the complainant got burnt and disfigured. FIR ExP-1 was lodged by the complainant PW-1. Investigation was made on that basis and after completion of investigation charge-sheet was filed before the concerned Court.
3. The trial Court framed the charges under Sections 420/34 & 326(B)/34 of IPC against the appellants. They abjured their guilt and sought trial. After completion of prosecution evidence, the appellants were examined under Section 313 of CrPC in which they denied all the incriminating evidence available against them in the prosecution case, pleaded innocence and false implication. No witness was examined in defence.
4. After completion of trial, the trial Court by the impugned judgment convicted and sentenced the appellants in the manner as described above.

5. It is submitted by counsel for appellants that appellants have been erroneously convicted without there being any evidence on record proving their complicity beyond reasonable doubt. Quality of the statements of the prosecution witnesses is not of such nature which can form basis for their conviction. Prosecution case does not get support from the medical evidence that the complainant suffered acid injury. In these circumstances, the appellants are entitled for acquittal. It is also submitted that the appellants have been released from jail after completion of sentence of imprisonment, hence, only to restore of prestige of appellants the appeal be allowed.
6. Learned counsel for the State has opposed the grounds raised in this appeal as also the arguments advanced by the counsel for the appellant. It is submitted that the prosecution has proved its case beyond reasonable doubt, hence, there is no infirmity or illegality in the impugned judgment warranting interference by this Court in exercise of its appellate jurisdiction. Hence, the appeal is liable to be dismissed.
7. I have heard learned counsel for the parties and perused the record of the trial Court including the impugned judgment.
8. The question that requires determination in this appeal is whether on the basis of evidence available on record the prosecution has been able to establish guilt of accused/appellant beyond reasonable doubt ?
9. After perusing and closely scrutinizing the entire evidence available

on record, it is apparent that the trial Court has elaborately considered the evidence of each individual material witness in detail and that being the position, this Court is the opinion that the trial Court has not committed any mistake in arriving at a conclusion that the appellant is guilty for the offence punishable under Sections 420/34 & 326(B)/34 of IPC. Hence, this appeal has no substance, the same is liable to be dismissed and is hereby dismissed.

10. Since the appellants have already served the period of rigorous imprisonment to which they were sentenced, no further direction regarding their surrender etc. is needed.

11. Accordingly the appeal is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge