

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.1118 of 2017

Judgment Reserved on : 15.7.2019

Judgment Delivered on : 14.10.2019

Puranik Dhagesh, S/o Jaganuram Dhagesh, aged about 24 years, R/o Village Gahiybhedi (Gahirabhedi), P.S. Gaindatola, District Rajnandgaon, Chhattisgarh

---- Appellant

versus

State of Chhattisgarh through S.H.O. Police Station Kotwali, District Rajnandgaon, Chhattisgarh

--- Respondent

For Appellant : Mrs. Meena Shastri, Advocate
For Respondent/State : Mrs. Smriti Shrivastava, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. JUDGMENT

1. This appeal is directed against the judgment dated 13.7.2017 passed by the Special Judge (N.I.A.)/Sessions Judge, Bilaspur in Special Case (N.I.A.) No.1 of 2017, whereby the Appellant has been convicted and sentenced as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 489C of the Indian Penal Code	Rigorous Imprisonment for 5 years and fine of Rs.10,000/- with default stipulation

2. Facts of the case, in brief, are that on 3.9.2016, Natthulal Sharma (PW3), owner of a cinema hall was informed by Sheikh Latif (PW2), an employee of the cycle stand and Rejendra Gupta (PW1), an employee of the canteen that somebody had given them

counterfeit currency notes. Natthulal Sharma (PW3) lodged First Information Report (Ex.P6) on 4.9.2016. On 4.9.2016 itself, one note of Rs.100/- which was appearing to be counterfeit currency note was seized from Natthulal Sharma (PW3) vide Ex.P1 and one note of Rs.100/- which was also appearing to be counterfeit currency note was seized from Rajendra Gupta (PW1) vide Ex.P2. During investigation, it was found that one person had come to the cycle stand on a motorcycle bearing registration No.CG 08 H 2192, parked the motorcycle and given the said two counterfeit currency notes of Rs.100/- each to Rajendra Gupta (PW1) and Sheikh Latif (PW2). Jagbir Jamuriya (PW9), owner of the said motorcycle was inquired about the motorcycle. He disclosed that on the date of incident his said motorcycle was taken from from by the Appellant. Thereafter, on 5.9.2016, during interrogation, memorandum statement (Ex.P9) of the Appellant was recorded and on the basis of said memorandum statement, vide Ex.P10, one printer-cum-photo copier of Epson Company, one monitor of Dell Company, one keyboard of Logitech Company, one mouse of Logitech Company, one CPU of Intex Company, one dongle of Eyeball Company, four leads, one scissor, papers of A4 size, one adjection box, 34 counterfeit currency notes of Rs.1,000/-, 21 counterfeit currency notes of Rs.500/- and 19 counterfeit currency notes of Rs.100/- were seized from the possession of the Appellant. Statements of witnesses were recorded under Section 161 of the Code of Criminal Procedure. The seized counterfeit currency notes were sent to Mahaprabandhak, Currency Notes Press, Nasik for examination vide Ex.P21. Report is Ex.P23 in which it was found that all the currency notes sent to the Press in the denomination of Rs.100/-, Rs.500/- and Rs.1,000/- were

counterfeit currency notes. On completion of the investigation, a charge-sheet was filed. Charges were framed against the Appellant under Sections 489A, 489B, 489C and 489D of the Indian Penal Code.

3. To rope in the accused/Appellant, the prosecution examined as many as 9 witnesses. Statement of the accused/Appellant was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the guilt. No witness has been examined in his defence.
4. After trial, vide the impugned judgment, the Trial Court acquitted the Appellant of the charges framed under Sections 489A, 489B and 489D of the Indian Penal Code, but convicted and sentenced him as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellant submitted that the Appellant has wrongly been convicted by the Trial Court. There is no evidence against him on the record. The conviction is based only on the statement of Investigating Officer Assistant Sub-Inspector Mineshwar Baghel (PW8). None of the other prosecution witnesses has supported the case of the prosecution. Statement of Mineshwar Baghel (PW8) is suspicious and not reliable. The alleged counterfeit currency notes were not produced before the Trial Court and, therefore, the whole trial is vitiated. It was also submitted that if the Appellant is convicted by this Court, he may be sentenced for the period already undergone by him because he has already suffered jail sentence of about more than 3 years.
6. On the contrary, Learned Counsel appearing for the State opposed

the submissions made on behalf of the Appellant and supported the impugned judgment of conviction and sentence.

7. I have heard Learned Counsel appearing for the parties and perused the record with due care.
8. Rajendra Gupta (PW1), Sheikh Latif (PW2) have deposed that some unknown person gave them counterfeit currency notes of Rs.100/- which they handed over to Natthulal Sharma (PW3). Rajendra Gupta and Sheikh Latif have denied the suggestion that they were acquainted with the Appellant. Both the witnesses have been declared hostile.
9. Natthulal Sharma (PW3) has also stated that he was also not acquainted with the Appellant. As stated by him, both Rajendra Gupta (PW1) and Sheikh Latif (PW2) had come to him and told that some unknown person had given them counterfeit currency notes of Rs.100/- and on this he had lodged the FIR (Ex.P6). As alleged by the prosecution, the Appellant had come to Sheikh Latif (PW2) on a motorcycle of Jagbir Jamuriya (PW9) bearing registration No.CG 08 H 2192, but Jagbir Jamuriya has also not supported this fact and turned hostile.
10. Investigating Officer Mineshwar Baghel (PW8) has deposed that on 5.9.2016 he called witnesses Indra Kumar (PW6) and Dilip Sahu (PW5) and in their presence he recorded memorandum statement (Ex.P9) of the Appellant. Thereafter, on 5.9.2016 itself, in presence of the above two witnesses, vide Ex.P10, he seized one printer-cum-photo copier of Epson Company, one monitor of Dell Company, one keyboard of Logitech Company, one mouse of Logitech Company, one CPU of Intex Company, one dongle of

Eyeball Company, four leads, one scissor, papers of A4 size, one adjunction box, 34 counterfeit currency notes of Rs.1,000/-, 21 counterfeit currency notes of Rs.500/- and 19 counterfeit currency notes of Rs.100/- from the possession of the Appellant. Both seizure witnesses Dilip Sahu (PW5) and Indra Kumar (PW6) have also not supported the case of the prosecution and turned hostile. Mineshwar Baghel (PW8) has further deposed that the seized counterfeit currency notes were sent to Mahaprabandhak, Currency Notes Press, Nasik vide memo dated 19.9.2016 (Ex.P21) for examination. Report of the Press is Ex.P23.

11. On a minute examination of the above evidence available on record, it is clear that apart from Investigating Officer Mineshwar Baghel (PW8), none of the prosecution witnesses has supported the case of the prosecution. With regard to the seizure of the counterfeit currency notes, there is nothing on record on the basis of which the statement of Mineshwar Baghel (PW8) could be disbelieved. There is nothing on record on the basis of which it could be said that Investigating Officer Mineshwar Baghel has falsely implicated the Appellant. From the statement of Mineshwar Baghel (PW8), it is well established that he made seizures of the counterfeit currency notes in presence of the two seizure witnesses. The Report (Ex.P23) is also positive. The argument advanced by Learned Counsel appearing for the Appellant that the counterfeit currency notes were not produced before the Trial Court during trial and, therefore, the trial is vitiated is not sustainable because from paragraph 18 of the statement of Investigating Officer Mineshwar Baghel (PW8) it is clear that 34 counterfeit currency notes of Rs.1,000/- (Articles A1 to A34), 21

counterfeit currency notes of Rs.500/- (Articles A35 to A55) and 19 counterfeit currency notes of Rs.100/- (Articles A56 to A74) were produced before the Trial Court during recording of the statement of this witness. Thus, in my considered opinion, the finding of the Trial Court is based on the evidence available on record. I find that the Appellant has rightly been convicted by the Trial Court. Therefore, the conviction of the Appellant under Section 489C of the Indian Penal Code is affirmed.

12. As regards sentence part, it is reported that the Appellant is in jail since 5.9.2016. Out of the total jail sentence of 5 years, he has already suffered about more than 3 years. He is facing the *lis* since 4.9.2016. I am of the view that it would be in the interest of justice if the Appellant is sentenced for the period already undergone by him and the amount of fine of Rs.10,000/- is enhanced to Rs.1,00,000/-. Ordered accordingly. In default of payment of the fine, the Appellant shall be liable to undergo additional rigorous imprisonment for 6 months. If any amount has already been paid towards fine, the same shall be adjusted in the amount of fine of Rs.1,00,000/-.
13. Consequently, the appeal is allowed in part to the extent indicated above.
14. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
JUDGE