

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Appeal No. 83 of 2019**

1. Mohd. Sohel Khan S/o Mohd. Chand Miyan, aged 20 years R/o Chhotapori, Police Station Moralganj, District Bagirhat (Bangladesh).
2. Mohd. Sipan Haldar @ Imran S/o Bhahdulkadir, aged 23 years R/o Khauliya, Post Sannasi, police Station Moralganj, District Bagirhat (Bangladesh)
3. Mohd. Rimon Sheikh S/o Mohd. Ainal Sheikh, aged 19 years R/o Durgapur, P.S. Kalipur, P-24, Pargana (Bangladesh)
4. Mohd. Rana Haldhar S/o Abdul Shobhan Haldar, aged 32 years R/o Sotalodhi, P.S. Moralganj, District Bagirhat (Bangladesh)
5. Mohd. Roni S/o Mohd. Aamir Ali, aged 22 years R/o Barbaikhali, P.S. Moralganj, District Bagirhat (Bangladesh)
6. Mohd. Kabir S/o Mohd. Badruddin Sheikh, aged 40 years R/o Village Kodliya, P.S. Soladana, District Bashirhat (Bangladesh).

**----Appellants****Versus**

State of Chhattisgarh through Police Station Civil Lines District Bilaspur (C.G.)

**---- Respondent**

|                |   |                             |
|----------------|---|-----------------------------|
| For Appellants | : | Mr. Azad Siddique, Advocate |
| For Respondent | : | Ms. Sriya Mishra, PL        |

**Hon'ble Shri Justice Arvind Singh Chandel****Judgment on Board****10/07/2019**

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 28/06/2017 passed in Sessions Trial No. 10/2016 by the 5<sup>th</sup> Additional Sessions Judge, District Bilaspur (C.G.) convicting all the Appellants under Sections 402, 399 of the IPC and Sections 14 (A) (B) of the Videshi Vishyak Adhiniyam, 1966 and sentenced them to undergo RI for 5 years and to pay fine of Rs. 500, RI for 5 years and to pay fine of Rs. 500 and RI for 2 years and to pay fine of Rs. 200/-,

respectively with default stipulations. Appellant No. 1 Mohd. Sohel Khan, Appellant No. 4 Mohd. Rana Haldhar, Appellant No. 5 Mohd. Roni and Appellant No. 6 Mohd. Kabir were additionally convicted under Section 25 (1-B) (B) of the Arms Act and sentenced to undergo RI for 3 years and to pay fine of Rs. 100/- each with default stipulations.

2. As per prosecution story, in the intervening night of 02-03/11/2015 at about 2:30 am, one informant informed the Police Station Bilaspur that some persons are planning for robbery and have assembled at Railway track behind of Babji Park situated on Ring Road No. 2. It was also informed that all the Appellants were well equipped with dangerous weapon viz. Sharp knife, iron, blunt knife and khokhari etc. On the basis of said information, the police reached the spot and arrested all the Appellants. Air gun, torch, knife, screw driver etc. were seized from their possession. It was also found that the Appellants were resident of Bangladesh and were residing in India without any passport and valid documents. After investigation, a charge-sheet has been filed and charges were framed. To prove the guilt of the Appellants, the prosecution has examined as many as 9 witnesses. No defence witness has been examined. Statements of the Appellants under Section 313 of the Cr.P.C were recorded, wherein they pleaded their innocence and false implication in the matter.
3. After trial, the trial Court has convicted and sentenced the Appellants as mentioned in paragraph one 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 5 years, the Appellants have undergone about 4 years and 7 months and they are in jail since 3/11/2015, there is no criminal antecedent of the Appellants, therefore, the jail sentence awarded to them 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, particularly that out of total jail sentence of 5 years, the Appellants have undergone about 4 years and 7 months, they are in jail since 03/11/2015 and there is no criminal antecedent of the Appellants, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail sentence awarded to them is reduced to the period already undergone by them.
8. Consequently, the appeal is partly allowed. The conviction imposed upon the Appellants under the aforementioned Section is upheld, however, the jail sentence awarded to them is reduced to the period already undergone by them. The fine sentences imposed upon him is affirmed.
9. The Appellants be released forthwith, if not required, in any other cases. The state is directed to ensure that the Appellants be sent back to their country.

10. Record 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**

Rahul