

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 794 of 2000

1. Raju @ Buntty @ Dharmendra Marathi, son of Kriparam Marathi @ Manjhi Bag Udiya, aged about 28 years, Occupation Driver, R/o Near Macchli Godam Jugasbai, Tatanagar, PS Jungasbai Tatanagar (Bihar).
2. Bhupind @ Bhupendra son of Panchu @ Beeru Gond, aged about 28 years, Occupation Agriculture, R/o Village Dharmapur, PS Gramin Lalbag, District Rajnandgaon (MP). **(Now CG)**
3. Pappu @ Vikky S/o Late Dadamiyan (Musalman), aged about 24 years, Occupation Paan Dukan, R/o Bakhtawar Chal Ward No.16, Tulsipur, PS Rajnandgaon, District Rajnandgaon (MP) **(Now CG)**

Versus

State of Madhya Pradesh, through Police Station Dongargarh, District Rajnandgaon (MP). **(Now CG)**

For the Applicant : Mr. Atanu Ghosh, Advocate

For the Respondent : Ms. Ishwari Ghritlahre, PL (Legal Aid)

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

19.02.2020

1. FIR (Ex.P-7) lodged by victim Narottam Sharma (PW-8) goes to show that on 22.06.1998 when he was returning on his Hero Honda motorcycle from Dongargarh, the accused/appellants herein came from behind on their scooter, stopped them on the way and by causing knife injuries on various parts of his body,

took away his gold chain, ring, 500 cash and Hero Honda motorcycle, all worth Rs. 41,500. On the basis of this report, offences under Sections 394 and 397 IPC were registered against all the three accused persons. Victim (PW-8) was medically examined by Dr. H Sachdev (PW-1) who gave his report Ex.P-1. After completion of investigation charge-sheet was filed under the same sections. However, the Court below framed the charge against them under Sections 394, 307 or 307/34 and 394/397 IPC.

2. Learned Court below by its judgment dated 03.02.2000 passed in Sessions Trial No.201/1998 found the involvement of all the accused persons in committing loot and making an attempt of committing the murder of PW-8 by infliction of injuries on various parts of his body including the vital ones such as chest and stomach, duly proved and thus convicted them under Sections 394 and 307 IPC with imposition of sentence of RI for 10 years with fine of Rs.1000 each on two counts. Hence this appeal.

3. Learned counsel for the accused/appellants submits that the accused/appellants are innocent and have been falsely implicated in this case. He however submits that if the conviction of the accused/appellants is not going to be interfered with, at least the sentence imposed on them may be reduced to the period already undergone which in the case of accused Raju comes to more than the sentence imposed on him; in the case of accused Bhupendra about 7 years and in the case of accused

Pappu it comes to about 19 months. While making such prayer he also referred to the incident being quite old having taken place in the year 1998 and as of now they must be in their late fifties bearing the burden of their family responsibilities and if kept in detention any longer, entire family life would be ruined. State counsel however supports the judgment impugned.

4. Having seen the entire categorical evidence of the victim PW-8 where he has put-forth his agony of being looted and inflicted number of fatal injuries with a deadly weapon like knife, which gets corroboration from the evidence of Dr. H Sachdev (PW-1) who medically examined him and noticed as many as three injuries, two being on vital parts like chest and stomach, and also taking into consideration the deposition of seizure witnesses to Ex.P-9, Ex.P-10, Ex.P-11 and Ex.P-12 by which blood stained clothes, scooter of the accused/appellants, Hero Honda of the victims, registration papers, insurance papers and driving licence of the victim, this Court is of the opinion that the accused/appellants had looted PW-8 on the point of knife and also caused injuries with it on various parts of his body and thus committed an offence under Sections 394 and 307 IPC. No illegality or irregularity with the well reasoned finding holding the accused/appellants guilty as described above is noticeable and being so the conviction part of the judgment impugned is hereby maintained.

6. Since as per jail report dated 16.02.2020, accused Raju @ Bunty had been in detention for more than 10 years and thus

completed the entire sentence imposed on him and released from jail on 05.12.2011, the appeal in his respect is hereby dismissed. Likewise, as accused Bhupendra has also been released from jail on 05.07.2004 after extending the benefit of remission, his appeal is also dismissed. However, as the accused/appellant Pappu @ Vikky has remained inside for about 19 months, this Court is of the opinion that the sentence imposed on him can be reduced to period already undergone. Order accordingly.

6. Thus the appeal in respect of accused Raju @ Bunty and Bhupendra is hereby dismissed with the observations made above. However, it stands allowed in part as far as accused/appellant Pappu @ Vikky is concerned.

Sd/-

(Vimla Singh Kapoor)
JUDGE