

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 561 of 2011**

1. Janesh Kumar Singh, S/o- Prabhudayal Singh, Aged about- 18 years, Occupation- Agriculture/Reading, R/o- Village- Neharunagar, P.S.- Ramanujganj, District- Surguja (C.G.)
2. Mohammad Aashiq, S/o- Noormohammad, Aged about- 19 years, Occupation- Labour, R/o Village- Near Sagar Talab Parradand, Ambikapur, P.S. Kotwali, District- Surguja (C.G.)

---- Appellants**Versus**

- State of Chhattisgarh, through- Police Station- Ramanujganj, District- Surguja (C.G.)

---- Respondent

For Appellants : Shri Sanjay Agrawal, Advocate.

For State/Respondent : Smt. Shubha Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment on Board****17/01/2020**

1. This appeal is preferred against the judgment dated 15th March, 2011 passed by Additional Sessions Judge (F.T.C.), Ramanujganj, Surguja (C.G.) in Sessions Trial No. 193/2009 wherein the said Court convicted both the appellants for commission of offence under Sections 450 and 394 read with Section 34 of IPC, 1860 and sentenced them to undergo R.I. for ten years and fine of Rs. 500/- on each count with default stipulations.
2. In addition to that appellant No. 1 Janesh Kumar Singh was convicted for offence under Section 397 of IPC, 1860 and

sentenced him to undergo R.I. for seven years and fine of Rs. 500/- with default stipulation.

3. In the present case, name of the complainant is Smt. Seetapati (PW-1). It is alleged that on the date of incident i.e. 12th February, 2008 at about 08:30 p.m. the appellants entered into the house of Smt. Seetapati, who is residing with her family at village- Aaragahi, with deadly weapon country-made revolver (Katta) and committed robbery of Rs. 21,000/-. The matter was reported and investigated, appellants were charge-sheeted and convicted as mentioned above.
4. Learned counsel for the appellants submits that the evidence of prosecution witnesses is full of omission and contradiction and all the witnesses are related person, therefore, their evidence is shaky in nature. The trial Court has not evaluated the evidence properly, therefore, finding of the trial Court is liable to be set aside.
5. On the other hand, learned counsel for the State submits that finding of the trial Court is based on proper marshaling of evidence which is not required to be interfered while invoking jurisdiction of the appeal.
6. I have heard learned counsel for the parties and perused the record of the Court below wherein judgment has been passed.
7. The case of the prosecution is based on eye witnesses account to the incident. Smt. Seetapati (PW-1), Kumari Sushmita Lakada (PW-5) and Smt. Anju Minj (PW-8) have deposed before the trial

Court that both the appellants entered into house of Smt. Seetapati and they demanded key of the almirah and thereafter they opened the almirah locker and robbed Rs. 21,000/-. Version of these witnesses is unrebutted during cross-examination and their version is further supported by factum of seizure. The F.I.R. was lodged on the same day of the incident i.e. 12th February, 2008 naming both the appellants as culprits. Looking to prompt lodging of F.I.R. and looking to unrebutted testimony of witnesses, the trial Court recorded finding that charge levelled against the appellants is established.

8. From the evidence, it is also clear that appellant No. 1 Janesh Kumar Singh was in possession of firearm, i.e. country-made revolver (Katta) in his possession during commission of crime and he used the same for commission of crime. It is quality and not quantity of the evidence of witnesses and there is no delay in lodging F.I.R. because same is lodged on the same day. There is nothing to discard the version of testimony witnesses because witnesses are stable to their version from the day of incident to their statement before the trial Court. Looking to the stability of the witnesses, the evidence cannot be discarded. The act of the appellants falls within the mischief for which the trial Court convicted them, therefore, argument advanced on behalf of the appellants is not sustainable. Conviction of both the appellants for the said offence is hereby affirmed. The trial Court awarded sentence of ten years which cannot be termed as harsh,

disproportionate or unreasonable and the same is not liable to be interfered.

9. In view of the above, appeal filed by the appellants is liable to be and is hereby dismissed. As per report of jail authorities the appellants have suffered full jail term, and released from bail, therefore, no further orders for their arrest etc. is required.

Sd/-
(Ram Prasanna Sharma)
Judge

Vasant