

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 827 of 2012

Judgment reserved on 01.10.2020

Judgment delivered on 03.12.2020

Baratram Sahu S/o. Pirit Ram Sahu, aged about 34 years, R/o. Village Girsra, P.S. Sarsiva, District Raipur (Chhattisgarh)

---- **Appellant**

Versus

State of Chhattisgarh through Police Station Sarangarh, District Raigarh (CG)

---- **Respondent**

For Appellant : Mr. Raghvendra Pradhan, Advocate.
For Respondent : Mr. Sameer Sharma, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

Challenge in this appeal is to the judgment of conviction and order of sentence dated 17.08.2012 passed by the Additional Sessions Judge, Sarangarh District Raigarh (C.G.), in Sessions Trial No. 36 of 2010, whereby the learned Additional Sessions judge, convicted the appellant for the offence punishable under Section 489(C) IPC and sentenced him to undergo rigorous imprisonment for 5 years and to pay fine of Rs. 2000/- with default stipulation.

2. Facts of the case in short, are that on 09.08.2010 Town Inspector K.K. Vasnik (PW-10) received a secret information from the informer to the effect that the appellant was trying to use forged/counterfeit currency notes as genuine ones. Thereafter, he registered this information in Rojnamcha Sanha (Ex.P-11) and proceeded to the place along with his teammates. He found that a person came there in a discover bike of without number plate and stopped the same near public toilet at Bus stand, Sarangarh. On being suspicion, he was stopped by police then he disclosed his name as Barat Ram Sahu of Girsia Police Station Sarsiva. On physical search, 150 fake currency-notes of denomination of Rs. 100-100 total 15,000/- fake currency notes were found from the possession of the appellant. The appellant furnished this information that he roped the fake notes in a blue polythene and kept it in his front pocket. Thereafter he prepared search panchanama (Ex.P-1) and made seizure of fake currency notes under (Ex.P-2). The appellant was arrested vide Ex.P-6. Seized currency notes were kept under the seal and signature of PW-10. After registration of FIR (Ex.P-10), seized currency notes was sent for examination to the Bank Note Press Dewas (M.P.) (not exhibited) and thereafter the reports of expert was received under Ex.P-5 according to which the notes seized from the appellant were fake.

3. After due investigation, charge-sheet was filed in the Court of JMFC, Sarangarh, who, in turn, committed the case for trial to the Court of

Additional Sessions Judge, Sarngarh who convicted and sentenced the appellant under Section 489 (C) IPC.

4. To substantiate the charge prosecution has examined as many as 10 witnesses in their support and the statement of the appellant was recorded under Section 313 Code of Criminal Procedure.

5. Counsel for the appellant/accused would argue that though the seizure witness namely Mohammad Sarfaraj (PW-3) has not supported the case of the prosecution and turned hostile, yet the Court below has recorded an erroneous finding to the effect that the fake currency notes were seized from the possession of the appellant which is not sustainable in law. He submits that the finding of the trial Court is based on conjecture and surmises and the same is not liable to sustain being opposed to law. Lastly, he submits that there are major contradictions and omissions in the statements of the prosecution witnesses and therefore, benefit of doubt should have been given to the appellant.

6. State counsel however supports the judgment impugned and submits that the findings recorded by the Court below convicting and sentencing the accused/appellant as mentioned above are based on the proper appreciation of the evidence on record and, therefore, no illegality or infirmity is traceable in the same worth interference in this appeal.

5. Heard both the parties and perused the record.

6. K.K. Vasnik (PW-10), in his statement, stated that on 09.08.2010 he was posted as Town Inspector, Police Station, Sarangarh, he received a secret information from the informer that the appellant deals with the fake currency notes. This witness called witnesses Mohammad Sarfarz, Vijay Yadav and Jeevanlal thereafter he recorded this information in the Rojnamcha Sanha (Ex.P-11) and went to bus stand Sarangarh along with other Police escort where he found that one person using without number plate bike and stopped the same near public toilet at Bus stand. He stated that he along with staff reached there and on being suspicion, he caught hold the appellant and he disclosed his name as Barat Ram Sahu. This witness stated that the appellant stated that he came from Sarangarh to use counterfeit currency notes. Thereafter, he prepared search panchanama (Ex.P-1) during search, he found 150 fake currency-notes of denomination of Rs. 100-100 total 15,000/- from the appellant which was raped by him in a blue polythene on his front pocket under seizure memo (Ex.P-2). He stated that after retuning back to Police Station, he registered Crime No. 295/2010 and lodged the FIR (Ex.P-10) at Police Station, Sarangarh and copy sent to JMFC, Sarangarh. The other witnesses have also supported the case of the prosecution.

7. K.K. Vasnik (PW-10) stated that he sent all seized notes for examination to the Manager, Bank Note Press, Dewas (MP) through draft (not exhibited) of Superintendent of Police, Raigarh and received examination report (Ex.P-5) and all notes seized at the instance of the appellant, was found counterfeit Indian currency. From the evidence of

of the expert, it is established that the appellant was in possession of the counterfeit currency notes.

8. From the evidence of the witnesses, it remains undisputed that on the date of incident 150 currency notes of Rs. 100-100/- denomination total 15,000/- currency notes were seized from the appellant. Though, the seizure witnesses have not supported the seizure as a whole, they have admitted their signature on the seizure memo Ex.P-2. This apart, PW-10 who had affected the seizure from the accused/appellant which on examination was found to be fake currency and has supported the case of the prosecution.

9. It is established that the appellant was in possession of counterfeit currency notes and it is for him to explain the source or receiving the currency notes, but the appellant did not explain anything and his version is mere denial which is merit- less. In absence of explanation, it can be presumed that he had reason to believe that seized currency notes are counterfeit and when he is in possession of the said counterfeit notes, it can be presumed that he kept the same to use as genuine.

10. The trial Court has elaborately discussed the entire evidence and came to a conclusion that the offence under Section 489(C) IPC is established against the appellant and this court has no reason to record a contrary finding. Accordingly, the conviction of the appellant for the offence under Section 489 (C) is hereby affirmed.

11. Heard on the point of sentence.

12. As regards sentence, the report received from the Superintendent, Central Jail, Bilaspur, District Bilaspur dated 19.06.2020 shows that after getting the benefit of remission, the accused/appellant has already been released from the jail on 01.05.2015, therefore, no observation regarding the sentence part is required to be made by this Court.

13. In view of what has been discussed as above, the appeal being without any substance is liable to be dismissed and is hereby dismissed as such.

Sd/-
(Vimla Singh Kapoor)
JUDGE