

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 61 of 2012

Dilip Sahu S/o Kishan Sahu Aged About 25 Years R/o. Asra., P.S. Dongargaon, Distt. Rajnandgaon (C.G.)

---- Appellant

Versus

State Of Chhattisgarh Through the SHO, P.S. Bhilai Bhatthi, Distt. Durg (C.G.)

---- Respondent

For Appellant	:	None.
For Respondent/State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

20/05/2020

1. By the impugned judgment dated 28/09/2011 passed in S.T. No. 174/2009 by the learned 2nd Additional Session's Judge, Durg, District Durg(C.G.), the Appellant has been convicted for the offence punishable under Section 397 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 7 years, and to pay fine of Rs. 1,000/-, with default stipulation.
2. According to the prosecution story, on 25.02.2008 at about 2-2:30 PM, when complainant Anupama returned to her house from office thereafter she slept with her daughter and when she woke up at around 4 PM, she heard a sound of door then saw a boy aged about 22 years was standing and pointed a gun towards her and another

boy who was aged about 17 years told her to not make noise. Allegedly, both the boys have looted two golden bangles and one golden necklace of the complainant and one golden bangle of her daughter. They have also looted Rs. 400-500 cash from the complainant. During the incident, the appellants have also assaulted the complainant and her daughter due to that they sustained injuries. Thereafter, the appellants fled away from the spot. Later on *Dehati Nalisi* was lodged (Ex. P-1) against unknown persons. During course of investigation, looted item were seized from the possession of the appellant and other co-accused person. Later on statement of the complainant and other witnesses recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet has been filed. Trial Court has framed the charges under Section 397 of the Indian Penal Code. To prove the guilt of the Appellant, the prosecution has examined as many as 18 witnesses. No defense witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C. was recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Jagdalpur District Bastar (C.G.) would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released on 04.01.2017.
5. Since no one appears for the Appellant today, I decide this appeal on merits.

6. I have heard Learned Counsel appearing for the State and perused the record to assess the correctness of the impugned judgment of conviction.
7. Complainant Anupama (PW-1) has deposed in the same manner as she was reported in the *Dehati Nalisi* (Ex. P-1). This witness during her cross-examination identified the appellant in Court room, at the time of test identification parade also, this witness was duly identified the appellant, apart from this, S.K. Jain (PW-11), finger print expert has also categorically stated that he has found finger print of the appellant on the spot.
8. From the evidence available on record, It is well established that the appellant has committed crime in question along with other co-accused person. There is sufficient evidence available on record against the Appellant and the crime has duly proved against him. Thus, the learned trial Court has rightly convicted the appellant.
9. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge