

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 150 of 2010

Anup Chakravarty S/o Shri Anil Chakravarty, aged about 46 years, Occupation Vegetable Vendor, R/o Jairamnagar, Police Station Masturi, District Bilaspur (C.G.).

---- Appellant

Versus

State of Chhattisgarh through District Magistrate, Bilaspur, District Bilaspur (C.G.).

---- Respondent

AND

CRA No. 193 of 2010

1. Harikishore S/o Rambaran Rai, aged 34 years, Labour, R/o Jiram Nagar, P.S. Musturi, District Bilaspur (C.G.).
2. Jitendra S/o Bindeshwar Choudhari, aged about 27 years R/o Village Chitawan P.S. Gorarudh, Distt. Vaishali (Bihar)

---- Appellants

Versus

State of Chhattisgarh through Police Station Masturi, Distt. Bilaspur (C.G.)

---- Respondent

For Appellant	:	None
For Respondent	:	Mr. Alok Nigam, Govt. Advocater

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

16/12/2020

1. Since both the appeals arise out of same crime number, therefore, they are being decided by this common judgment.
2. By the impugned judgment dated 08/02/2010 passed in Sessions Trial No. 04/2005 by the 8th Additional Sessions Judge (FTC), Bilaspur Bilaspur (C.G.), the Appellants have been convicted under Sections

458, 395 and 397 of the IPC and sentenced to undergo RI for 5 years with fine of Rs. 1000/-, RI for 6 years with fine of Rs. 1000/- and RI for 7 years with fine of Rs. 1000/-, respectively with default stipulations. Apart from this, appellant Harikishore has been additionally convicted under Section 25 & 27 of the Arms Act and sentenced to undergo RI for 3 years with fine of Rs. 500/- with default stipulation. All the sentences were directed to run concurrently.

3. Facts of the case are that on 11/08/2004, Complainant Kishanlal Agrawal and her wife Rajni were sleeping in their house. At about 12:00 night, the appellants came there and pressed the neck of the complainant due to which he woke up and saw that three persons were standing near his bed, and one of them was carrying a knife (Kukri). It is alleged that when he tried to make noise, the appellants closed his mouth by a tape and tied his legs and hands by tearing a bed-sheet. When the wife of the Complainant woke up, the appellants also closed her mouth by tape and tied her legs and hands by a piece of bed-sheet. Thereafter, the appellants looted four numbers of gold bangles, two golden rings, one set of silver jewelery, one necklace, one ear ring and other articles. Thereafter, the appellants assaulted them and fled away from the spot. On the basis of report made by the Complainant, offence has been registered. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. As many as 20 prosecution witnesses have been examined. Statement of the Appellants under Section 313 of the Cr.P.C have been recorded, wherein they have pleaded their innocence and false implication in the matter.
4. After trial, the trial Court has convicted and sentenced the Appellants

as mentioned in paragraph one of this judgment. Hence, these appeals

5. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Bilaspur would mention that Appellant Harikishore has undergone the entire jail sentence imposed upon him by the Trial Court and already released from the jail on 16/03/2011. Further, appellant Jitendra has undergone the entire jail sentence imposed upon him and has already released on 12/04/2011. Similarly, appellant Anup Chakravarthy has undergone the entire jail sentence imposed upon him by the trial Court and has already released on 13/04/2011.
6. Since no one appears on behalf of the Appellants, therefore, I am going to decide these appeals on its merit.
7. I have heard Learned Counsel appearing for the State and perused the record and have also gone through the entire statement of the Complainant.
8. In their Court statements, Kishanlal (PW1) and his Wife Rajni (PW5), both the witnesses have duly supported the entire case of the prosecution. Though there are some contradictions and omissions occurred in their statement, but they are not material. From the statement of Mr. T.P. Dixit, Tehsildar (PW3), it is established that during test identification parade, the complainant had duly identified the looted articles. Kishanlal (PW1) and Rajni (PW5) have duly identified the appellant. From the statement of Dr. S.P. Dahariya (PW11), it is also established that wife of the Complainant sustained injuries on her wrist and Kishanlal sustained injuries on his bldy.
9. From the entire evidence adduced by the prosecution, in my considered opinion, the trial Court has rightly convicted and sentenced

the Appellants.

10. Consequently, I do not find any merit in these appeals. The same are dismissed.

**Sd/-
(Arvind Singh Chandel)
Judge**

Rahul