

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 16-01-2020

Delivered on 12-02-2020

CRA No. 352 of 2011

- Bajrang s/o. Ramraj Kewait, aged 23 years, r/o Bus Stand Pendra, Police Station Pendra, District Bilaspur (CG).

---- Appellant.

Versus

- State of Chhattisgarh through Police Station Pendra, District Bilaspur (CG).

---- Respondent

For Appellant : Mr. Yogendra Chaturvedi, Advocate

For respondent/State : Mr. Afroz Khan, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Judgment

1. This appeal is preferred against the judgment dated 28-4-2011 passed by the Additional Sessions Judge (FTC), Pendra Road, in Sessions Trial No. 39 of 2010 wherein the said Court has convicted the appellant for the commission of offence under Sections 427 and 436 of IPC and sentenced him to undergo RI for two years and RI for four years and fine of Rs.1000/- with default stipulations. Both sentences are directed to run concurrently.

2. In the present case, complainant is Walson Gond. As per version of prosecution, on 2-6-2010 the complainant was sleeping in

his house at about 12.30 a.m., and he woke up as he felt some heat around him and he saw that blanket and mosquito net were burning and appellant Bajrang was standing before him holding a container in his hand. It is further case of the prosecution that the appellant poured petrol on the shed of the house of the appellant and set it fire and fled away. The matter was reported and investigated. Appellant was charge-sheeted and convicted as mentioned above.

3 Learned counsel for the appellant would submit as under:

- i) Independent witnesses have not supported the version of prosecution and report is delayed and no explanation is given for delayed report.
- ii The trial court has overlooked material contradictions, omissions and exaggerations in the deposition of the witnesses, therefore, conviction on the basis of statement of complainant is not proper, therefore, finding of the trial court is liable to be set aside.

4 On the other hand, learned counsel for the respondent would submit that the finding of the trial Court is based on proper marshaling of the evidence and the same is not liable to be interfered while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused record of the court below in which impugned judgment is passed.

6. In the present case, date of incident is 2-6-2001 and report was lodged on the same day in Police Station Pendra as per Ex.P/1 in which name of the appellant is mentioned as culprit and his act of commission of mischief by fire by pouring petrol and lighting match stick is also mentioned. In the said report, it is mentioned that complainant suffered loss of Rs.1000/- by the act of the appellant. Complainant Walson Gond (PW/1) deposed before the trial court that it is the appellant who set fire the shed in his house due to which blanket and mosquito net were burnt. Version of this witness is supported by version of Sujata Gond (PW/2), Suneeta Gond (PW/3), Durga (PW/4), Sethuram (PW/6), Dharmendra Kumar Gupta (PW/7) and Jitendra Pandey (PW/8). Complainant Walson Gond (PW/1) is eye-witness account whose version is not rebutted during cross examination and it is supported by version of other witnesses who had occasion to see the fire in the house of the complainant. There is nothing on record that appellant has been roped in false charge of any grudge or

otherwise. The statement of the complainant is inspiring confidence and looking to the corroborative piece of evidence, it is clear that it is the appellant who caused mischief by fire.

7. On over-all assessment of the entire evidence, finding recorded by the trial court for conviction of the appellant is not liable to be interfered with and same is hereby affirmed. From the record, it appears that the appellant has suffered jail term from 9-6-2010 to 28-8-2010 and from 29-4-2011 to 13-5-2011. In view of this court, no useful purpose would be served if the appellant is again sent to jail. Sentence imposed by the trial court is reduced to the period already undergone by the appellant. Fine amount imposed by the trial court shall remain in tact.

8. With the aforesaid modification, the appeal is partly allowed.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju