

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 199 of 2005

Judgment reserved on 16.07.2020

Judgment delivered on 21.09.2020

1. Ram Narayan Aged about 33 years, S/o. Sarju Das Satnami
2. Umed, Aged about 35 years, S/o. Ram Bhau, Satnami
Both R.o. village Gothiya, P.S. Khairagarh, Tahsil Khairagarh, District Rajnandgaon (CG)
3. Suklal, Aged about 52 years, S/o. Ram Prasad Yadav, R/o. Village Khursipar, P.S. Khairagarh, Tahsil Khairagarh, District Rajnandgaon (CG)

---- Appellants

Versus

State of Chhattisgarh, through Police of Police Station Khairagarh, District Rajnandgaon (C.G.)

---- Respondent

For Appellants : Mr. R. N. Jha, Advocate.
For Respondent : Mr. Anand Verma, Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

Facts of the case in short are that on 08.03.2004 when complainant Daulatram was in his shop at Baldevpur, the appellants came there and demanded three packets of mixture (*namkeen*) on credit. On

being refused by the complainant, the appellants started quarreled with him and accused Sukhlal and Umed caught hold of him and tied to the *Kayat* tree. It is alleged that the appellants put the shop of the complainant on fire, as a result of which he suffered loss of Rs. 2500/-. It is stated that the matter was sent to Panchayat but the appellants did not pay any head then the FIR (Ex.P-6) was registered against them by (PW-6). After completion of investigation, charge sheet was filed against the appellants under Sections 342, 436/34 IPC and 3 - 2(3) Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act followed by framing of charge accordingly.

2. Learned Court below vide judgment impugned dated 24.02.2005 passed in Special Case No. 95/2004 acquitted the accused/appellants under Sections 3-2(3) Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act but has held them guilty under Sections 342 and 436 IPC with imposition of sentence of two years RI and to pay fine of Rs. 300/- each under Section 436 IPC, RI for 6 months under Section 342 IPC. Hence, this appeal.

3. Counsel for the appellant submits that the judgment of conviction and order of sentence passed by trial court is arbitrary, illegal and contrary to the evidence collected by the prosecution. According to the allegation incident took place on 08.03.2004 at about 7.00 PM in the evening whereas the FIR was lodged on 11.03.2004 with a delay of four days and therefore it was lodged after due consultation with the relatives. Learned counsel for the appellants submits that the star witnesses have turned hostile and no one had proved that it was the

appellants who set the shop of the complainant on fire. Learned counsel for the appellants submits that the appellants are implicated on the basis of suspicion and no offence under Section 436 IPC is proved against them beyond doubt.

4. On the other hand, state counsel supporting the impugned judgment has submitted that the judgment of the trial Court is strictly in accordance with law and well founded and there is no illegality or infirmity in it warranting any interference by this Court.

5. Heard counsel for the parties and perused the material available on record including the judgment impugned.

6. Daulatram (PW-6) is the victim of the incident and lodger of the FIR (Ex.P-6). This witness stated that on the date of incident i.e. on 08.03.2004 at about 7.00 PM, when he was in his shop, the accused/appellants came there in a drunken condition and demanded three packets of mixtures (namkeen) on credit. On being refused by him, the appellants got annoyed, quarreled with him. Thereafter accused Sukhlal and Umed caught hold of him and tied to the Kayat tree. Appellant Ramnarayan then took out the match box from his shop and put the same on the fire and ran away from there. This witness has stated that he somehow freed himself from the said tree and reached his house. Subsequently, with the help of his wife (not examined) and son (PW-5), he extinguished the fire. This witness further stated that Patiram (PW-1) and Panchram (PW-2) were standing there, but they turned hostile and not supported the case of

the prosecution. Manohar (PW-4) is the witness who proved the seizure of the burnt articles under (Ex.P-4). Rajkumar (PW-3) and Faguram Sinha (PW-7) are the witnesses, who proved the loss panchanama (Ex.P-3) and seizure memo (Ex.P-4). Total loss suffered by the complainant was worth Rs. 2500/-. M.R. Ratre (PW-10) is the witness, who registered FIR (Ex.P-6) in police station. Vivek Shukla (PW-11) is the witness who seized the ashes and broken pieces of bamboo of the burnt articles, in presence of witnesses under (Ex.P-8). Vishnu Kosre (PW-5) is the son of complainant, who has stated that on the date of incident at about 5.00 PM his father returned to the house and told that the appellants had come to his shop and playing mischief with him and they set his shop on fire. This witness has further stated that he along with his mother reached the spot but by then all the articles which were in the shop were burnt off. Evidence of the witnesses also get corroboration from the FIR (Ex.P-6). The statement of this witness is fully corroborated from the statement of (PW-7). Previous enmity between the complainant and the accused/appellants has also not been established by the prosecution and therefore, there is no reason as to why the complainant would implicate the accused/appellants in a false case for committing the offence punishable under Section 436 and 342 IPC.

7. Thus, the statement of all these witnesses are quite consistent and therefore the conviction of the accused/appellants recorded by the trial Court is based upon just & proper appreciation of evidence available on record which needs no interference by this Court.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 2004, that the accused/appellants have already remained in jail for a period of about one month and further that by now they must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on them to the period already undergone. In lieu of this, the appellants however, would be required to pay an enhanced sum of fine of Rs. 1000/- from that of Rs. 300/-each. Let this amount be deposited by the accused/appellants in the trial Court within a period of four months from today. Order accordingly.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh