

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 354 of 2007

1. Nehru Patel, S/o Kanhaiya Patel, aged about 30 years, Caste – Aghariya, Occupation – Agriculture, R/o Village – Aamapali, Thana – Lailunga, Distict – Raigarh, (C.G.).
2. Sakharam Sarathi, S/o Premsai Sarathi, aged about 50 years, Occupation – Labour, R/o Village Hati, Thana – Chhal, Tahsil – Dharamjaigarh, District – Raigarh, (C.G.).
3. Santosh Chauhan, S/o Ghasiram Chauhan, aged about 28 years, Occupation – Agriculture/Labour, R/o Village – Kunjara, Thana Lailunga, Tahsil – Gharghora, District – Raigarh, (C.G.).

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Versus

- State of Chhattisgarh Through Station House Officer, Police Station – Chhal, Tahsil – Dharamjaigarh, District – Raigarh, (Crime Number 55/2006).

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AND

CRA No. 692 of 2007

- State of Chhattisgarh, Through : District Magistrate, District – Raigarh (C.G.).

Versus

1. Nehru Patel, S/o Kanhaiya Patel, aged about 30 years, Caste – Aghariya, Occupation – Agriculturist, R/o Village – Aamapali, Thana – Lailunga, Distict – Raigarh, (C.G.).
2. Sakharam Sarthi, S/o Premsai Sarathi, aged about 50 years, Occupation – Labour, R/o Village Hati, Thana – Chhal, Tahsil – Dharamjaigarh, District – Raigarh, (C.G.).
3. Santosh Chauhan, S/o Ghasiram Chauhan, aged about 28 years, Occupation – Agriculturist/Labour, R/o Village – Kunjara, Thana Lailunga, Tahsil – Gharghoda, District – Raigarh, (C.G.).

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For Appellants	:	None
For State/Respondent	:	Shri H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

21/01/2021

1. Both the appeals have been preferred against the impugned judgment dated 25/01/2007 passed in S.T. No. 102/2006 by the 4th Additional Sessions Judge, (FTC), Raigarh, (C.G.) wherein appellants have been convicted and sentenced as under :

<u>Conviction</u>	<u>Sentence</u>
U/s 452 of the I.P.C.	R.I. for 7 months and 20 days and fine amount of Rs.1,000/- on each count with default stipulations.
U/s 323 of the I.P.C.	R.I. for 6 months on each count.
Both the sentence to run concurrently	

2. According to case of the prosecution, complainant Anil Agrawal (PW-1) owned a grocery shop in village Hati. On 5.6.2006 at around 2:00 PM all the appellants and some other persons (total 11) came to the house of the complainant in a Jeep bearing registration number CG 13/8979 in drunken state and looted Rs.1,50,000/- from him. It is alleged that appellants also committed mar-pit with the complainant, with his father and one Raju Bansal. It is further alleged that appellant No.1 Nehru Patel had snatched Rs.20,000/- from pocket of the complainant, thereafter, he and appellant No.2 Sakharam Sarthi again demanded Rs.50,000/- from him. They also threatened the complainant to kill. Matter was reported telephonically by one Raju Bansal who is the uncle of the complainant. Subsequently, police reached on the spot and caught the appellants. Injured persons were examined by Dr. S.S. Bhagat (PW-10). On the basis of the written report i.e. Ex.P/2, Dehati

Nalishi i.e. Ex.P/1 was registered. After completion of investigation, a charge-sheet was filed against 11 accused persons including appellants. Trial Court framed the charges under Section 395 of the I.P.C. To prove the guilt of the accused/appellants, prosecution examined as many as 17 witnesses. No defence witness has been examined. Statement of appellants under Section 313 of the Cr.P.C. was recorded, wherein accused/appellants have pleaded their innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the appellants as mentioned in paragraph 1 of this judgment. Hence, this appeal (Cr.A. No. 354/2007).
4. No one appears on behalf of appellants today.
5. As both the above appeals arise out of judgment dated 25.1.2007 passed in S.T. No.102/2006, and finding the correctness of judgment of the trial Court, I decide these appeals on merits by this common order.
6. Criminal Appeal No.692/2007 has been preferred by the State for enhancement of the sentence awarded to the appellants by the trial Court.
7. Vide PUD dated 27/06/2020 received from the Jail Superintendent, Central Jail, Bilaspur (C.G.), it has been reported that appellant No.1 Nehru Patel, appellant No.2 Sakharam Sarthi and appellant No.3 Santosh Chauhan have undergone the entire jail sentence imposed upon them by the trial Court and already released on 26/01/2007, 24/03/2007 & 25/01/2007 respectively.

8. I have heard learned Counsel appearing for the State and perused the record to assess the correctness of the impugned judgment of conviction.
9. Anil Agrawal (PW-1) in his court statement, has supported the case of the prosecution and deposed according to the case of the prosecution. His statement is duly supported by Rajiv @ Raju Bansal (PW-4) and Smt. Saroj Agrawal (PW-5), though there are some contradictions and omissions occurred in their statements but they are not material. They have duly identified all the appellants. They have identified the appellants in Court as well as in Test Identification Parade. From the medical report of these witnesses, it appears that they have sustained injuries on their body.
10. On minute examination of the evidence, it appears that on the date of incident, all the appellants entered in the house of the complainant and assaulted him and his family members. Looking to the entire evidence adduced by the prosecution, in my considered view, the trial Court has rightly convicted the appellants for the offence punishable under Section 452 and 323 of the I.P.C.
11. Consequently, the appeal (Cr.A. No.354/2007) has no merit and the same is liable to be and is hereby dismissed.
12. Criminal Appeal No. 692/2007 has been preferred by the State against the sentence awarded by the trial Court for offence punishable under Sections 452 and 323 of the I.P.C., praying that the trial Court has awarded lesser sentence to the appellants and, therefore, the sentence awarded to the appellants may be enhanced.

13. Considering the facts that appellants are facing the *lis* for last 17-18 years and they have no previous antecedents and further considering the fact that they have already undergone jail sentence for about 8 months in this case, and looking to the entire facts, it appears that the sentence awarded to the appellants by the trial Court is reasonable and the same does not require any enhancement.
14. Accordingly, Criminal Appeal No. 692/2007 is dismissed.

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