

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 741 of 2013

- Anil Kewat S/o Budhsen Kewat Aged About 25 Years R/o. Qtr. No. 14, Ekta Nagar, Khongapani, P.S. Jhagrakhand, Rev. And Civil Distt. Korea C.G.

---- Appellant

Versus

- State Of Chhattisgarh Through P.S. Baikunthpur, Distt. Korea C.G., Chhattisgarh

---- Respondent

And

CRA No. 932 of 2013

1. Jamil Husain @ Lala S/o Mehndi Husain Aged About 22 Years R/o Lahsui, PS Kotma, Distt. Anuppur, Madhya Pradesh.
2. Devchand @ Raju S/o Kallu Nishad Aged About 30 Years R/o Village Rajapur (Chitrapur), PS Rajapur, Distt. Karbi U.P. Present Address - Getdafai Bhloomada, PS Bhloomada, Distt. Anuppur, Madhya Pradesh.
3. Aman Gond @ Lallu S/o Swaroop Singh Gond Aged About 26 Years R/o Village-Nimha, PS Ramnagar, Distt. Anuppur, Madhya Pradesh.
4. Lallu @ Raju S/o Nandau Chaudhari Aged About 25 Years R/o Village Singaldafai Bhloomada, PS Bhloomada, Distt. Anuppur, Madhya Pradesh.

---- Appellants

Versus

- State Of Chhattisgarh Through PS Baikunthpur, Civil And Rev. Distt. Korea, Chhattisgarh.

---- Respondent

For Appellant (in CRA No. 741/2013): Mr. Deepak Kumar Jain, Advocate.

For Appellants(in CRA No. 932/2013): Mr. Ravi Maheshwari and Mr. Dashrath Prajapati, Advocates.

For Respondent/State : Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

08/02/2021

1. Since, both the appeals arise out of same Session Trial Number, therefore, they are being decided by this common judgment.
2. By the impugned judgment dated 15/04/2013 passed in Session Trial No. 133/2007, passed by the learned Session Judge, Korea (Baikunthpur), District Korea (C.G.), the Appellants have been convicted for the offence punishable under Sections 224, 307 r/w Section 34, 333 & 353 of the IPC and sentenced to undergo rigorous imprisonment for 2 years and to pay fine of Rs. 200/-, rigorous imprisonment for 10 years and to pay fine of Rs. 500/-, rigorous imprisonment for 10 years and to pay fine of Rs. 500/- & rigorous imprisonment for 2 years and to pay fine of Rs. 200/- respectively, with default stipulations. All the sentences to run concurrently.
3. In this case, all the Appellants were already in jail in various cases. On the date of incident i.e. 05.08.2007, the Appellants have badly assaulted Jail *Prahari* Ravendra Narayan Dwivedi who was performing his duty on the said date, the Appellants have also snatched keys of prison and fled away from Jail. Due to assault, Jail *Prahari* Ravendra Narayan Dwivedi has sustained injuries on various parts of his body. Thereafter, the matter was reported. On the basis of report made by complainant, offence has been registered against the Appellants. After completion of investigation, charge-sheet has been filed. Trial Court has framed the charges. To prove the guilt of the Appellants, the prosecution has examined as many as 16 witnesses.

No defense witness has been examined. Statements of the Appellants under Section 313 of the Cr.P.C. were recorded, wherein they have pleaded their innocence and false implication in the matters.

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, Ambikapur Surguja (C.G.) would mention that the Appellants have undergone the entire jail sentence imposed upon them by the Trial Court and already released on 24.09.2020, 02.07.2016, 15.04.2016, 08.06.2016 & 22.04.2016 respectively.
6. Learned Counsel for the Appellants submit that without being any sufficient evidence available on record, the Trial Court has convicted the Appellants. They further submit that there are material contradiction and omissions occurred in the statement of witnesses and complainant and by ignoring these facts, the Trial Court has wrongly convicted the Appellants, therefore, their conviction is not sustainable.
7. I have heard Learned Counsel appearing for the parties and gone through the statements of the witnesses. I have also perused the record available to assess the correctness of the impugned judgment of conviction.
8. There is no dispute on the point that on the date of incident, all the Appellants were detained in jail in connection with various criminal

cases. In the Court statement of Ravendra Narayan Dwivedi (PW-15), he has fully supported the case of the prosecution. He deposed that on the date of incident when he was on duty at that time, the Appellants went for call of nature and when he told them to get back to their barrack, all the Appellants attacked him and assaulted him badly. Thereafter, the Appellants forcefully snatched keys from him and fled away from jail. Surendra Prasad Upadhyay (PW-9), Dinesh Chandra Dhruw (PW-2) & MG Goswami (PW-7) have duly corroborated the statement of Ravendra Narayan Dwivedi (PW-15). From their statements, it is well established that all the Appellants were absconded from jail. Ravendra Narayan Dwivedi (PW-15) was medically examined by Dr. R.S. Sengar (PW-3), his medical report is (Ex.P-18) and x-ray report (Ex.P.21). From perusal of medical report and x-ray report, it appears that the complainant was sustained injuries on various parts of his body and there was also a fracture on his left hand's finger. According to the opinion given by Dr., injuries No. 1 & 2 was dangerous for his life.

9. Looking to the entire statements and evidence available on record and opinion given by Dr. R.S. Sengar (PW-3), in my considered view, the learned Trial Court has rightly convicted the Appellants.
10. Consequently, the appeals have no merits and the same are liable to be and are hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge