

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 169 of 2015

- Sheikh Abdul Rasid S/o Abdul Rajjak Aged About 30 Years R/o Behind Kallu Garrage, Moudahapara, P.S. Moudahapara, Raipur, District Raipur C.G.

---- Appellant

Versus

- State Of Chhattisgarh Through Station House Officer, P.S. Moudahapara, Raipur, District Raipur C.G.

---- Respondent

For Appellant	:	Mr. Jitendra Gupta, Advocate.
For Respondent/State	:	Mr. HS Ahluwalia, Dy.A.G.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

08/02/2021

1. By the impugned judgment dated 09/01/2015 passed in S.T. No. 51/2014 by learned 7th Additional Sessions, Raipur (C.G.), the Appellant has been convicted for the offence punishable under Section 397 of the Indian Penal Code and Sections 25 & 27 of the Arms Act and sentenced to undergo rigorous imprisonment for 7 years, rigorous imprisonment for 1 and rigorous imprisonment of 1 year, respectively. All the sentences to run concurrently.
2. As per prosecution story, on 02.10.2013 at about 5 AM when complainant Yogiraj was going to take news papers from Khanna News Agency for distribution of said news papers at that time near Patwa Complex Lane one unknown person met with him, he snatched the complainant's locket and also looted one mobile phone

from him. It was also alleged that the unknown person also threatened other persons namely Vivek Manikpuri and Mithlesh Sahu and also looted mobile phone from them. Thereafter, the matter was reported by complainant Yogiraj. On the basis of said report, offence has been registered. During course of investigation, on the basis of memorandum statement of the Appellant looted articles and one knife were seized from his possession. Test identification parade was also conducted by the prosecution, wherein, the complainant and other victims have duly identified the Appellant. After completion of investigation, charge-sheet has been filed against the Appellant. To prove the guilt of the Appellant, the prosecution has examined as many as 7 witnesses. No defense witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C. was recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Raipur (C.G.) would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released on 22.01.2019.
5. Learned Counsel for the Appellant submits that without being any clinching evidence available on record, the Trial Court has convicted the Appellant. He further submits that there are material contradictions and omissions occurred in the statement of complainant and other witnesses. He further submits that test identification parade of the

Appellant was also suspicious. But, ignoring all these facts, the Trial Court has wrongly convicted the Appellant.

6. I have heard Learned Counsel appearing for the parties and perused the record available to assess the correctness of the impugned judgment of conviction.
7. In his Court statement complainant Yogiraj (PW-1) has fully supported the entire case of prosecution. He categorically stated that the Appellant was the person who snatched his locket and mobile phone. His statement is duly supported by Vivek Manikpuri (PW-2) and Mithlesh Sahu (PW-3). All the above three witnesses were duly identified the Appellant at the time of their examination as well as at the time of test identification parade. From the evidence adduced by the prosecution, it also established that on the basis of memorandum statement of the Appellant, some looted articles were also seized from his possession.
8. Looking to the entire evidence adduced by the prosecution, in my considered view, the Trial Court has rightly convicted the Appellant.
9. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge