

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1851 of 2017

1. Chandan Singh S/o S/o Muni Singh Rajput, Aged About 21 Years
R/o Village Bhakura, Police Station Mukasil District Aara Bihar.
2. Harendra Kumar @ Prince S/o Ramchandra Yadav, Aged About
19 Years R/o Laxman Nagar, Police Station Muksil, District Aara
Bihar.

---- Appellants

Versus

- State Of Chhattisgarh Through Station In Charge Officer, Police
Station Katghora, District Korba Chhattisgarh.

---- Respondent

For Appellants	:Mr. Brijesh Kumar Singh, Advocate.
For State/Respondent	:Mr. Susheel Sahu, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

27.07.2021

1. This appeal has been preferred against the judgment dated
31.10.2017, passed in Session Trial No.21/2017 by the
learned Additional Sessions Judge, Katghora, Distt. Korba
(C.G.) wherein, the Appellants have been convicted for the
offence punishable under Section 394 of the IPC and
sentenced to undergo RI for 10 years and to pay fine of Rs.
5,000/-, with default stipulation.
2. According to the case of prosecution, on 05.02.2017,
complainant Rajesh Garg (PW-3) Driver of vehicle bearing

Registration No. MP 19-GA/1903 alongwith his helper Pappu Yadav (PW-4) were going from Odisha to Madhya Pradesh, at about 2:30 AM when they reached at village Chhuri near power plant at that time the Appellants and another co-accused person have parked their car in front of their vehicle and stopped them. Thereafter, the Appellants and another co-accused person entered inside the vehicle of the complainant and on the point of knife they have looted Rs. 14,000/- and documents of the said vehicle which was driven by the complainant and fled away from the spot. Thereafter, the matter was reported by Rajesh Garg (PW-3) vide Ex. P-1. Later on statements of the complainant and other witnesses recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed by the Police. Trial Court framed the charges against the Appellants. To robe the Appellants in the crime-in-question, the prosecution has examined as many as 6 witnesses. In the statement of the Appellants recorded under Section 313 of Cr.P.C, they have pleaded their innocence and false implication in the matter, however, no defence witness was examined by the Appellants.

3. After completion of trial, Trial Court convicted and sentenced the Appellants as mentioned in Para 01 of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellants submits that

without there being any clinching and reliable evidence available on record, the Trial Court has convicted the Appellants. He further submits that there are material omissions and contradictions occurred in the statements of the witnesses. The entire story narrated by the complainant is suspicious. The Counsel lastly submits that seizure of the looted money and documents are also not duly proved, therefore, the conviction of the Appellants are not sustainable.

5. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
6. I have heard learned counsel appearing on behalf of the parties and perused the record minutely. I have also gone through the statements of the witnesses.
7. In their Court statements, Rajesh Garg (PW-3) and Pappu Yadav (PW-4) supported the entire case of prosecution and deposed accordingly. Both the witnesses categorically deposed that at the time of incident, the Appellants and another co-accused have stopped their vehicle and looted Rs. 14,000/- and documents of their vehicle. Both the witnesses remain firm during their cross-examination though there are some material omissions and contradictions occurred in their statements, but they are not material. There is nothing on record on the basis of which it can be proved that due to previous enmity, the Appellants have falsely been implicated

by the complainant. From the medical evidence also, it was found that the complainant sustained simple injuries.

8. Considering the above facts and circumstances of the case, particularly considering that in this case looted amount is only rupees fourteen thousand, the Appellants have already undergone more than 4 ½ years of jail sentence, they have no criminal antecedents and they are facing the *lis* since 2017. I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail sentence awarded to them is reduced to the period already undergone by them.
9. Consequently, the appeal is partly allowed. The conviction of the Appellants under Section 394 of the IPC is affirmed and against the conviction they are sentenced to the period already undergone by them. The fine sentence for the above offence is also affirmed.
10. Accordingly, the appeal is disposed of.
11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge