
(2019) 08 CHH CK 0104

Chhattisgarh High Court

Case No: Criminal Appeal (CRA) No. 2035 Of 2000

Netram And Ors

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision: Aug. 19, 2019

Acts Referred:

- Indian Penal Code, 1860 - Section 294, 436, 506B
- Code Of Criminal Procedure, 1973 - Section 437A

Hon'ble Judges: Sharad Kumar Gupta, J

Bench: Single Bench

Advocate: B.P. Rao, Sareena Khan, D.K. Tiwari

Final Decision: Partly Allowed

Judgement

Offence u/S.,RI for,Fine Rs.,"RI in default of payment
of fine

436, IPC",5 Years,"5,000/-",1 year

16. There is no such evidence on record on strength of which it can be said that P.W.
9 Anuj Ram had made aforesaid statement only because he,,,

was interested with complainant party on such reason, or he was prejudiced with
appellants on such reason.",,,

17. No such omissions and contradiction have been dealt during cross-examination
of P.W.-4 Bhuvneshwari, P.W.-6 Motimbai, P.W.-9 Anuj Ram,",,,

P.W.-10 Bihari LaL, P.W.-11 Virendra @ Tetku on strength of which it can be said that
aforesaid testimonies of para 1 and 2 of P.W.-4",,,

Bhuvneshwari, para 1 and 3 of P.W.-6 Motimbai, in that reference, para 1 of P.W.-9
Anuj Ram, para 1 and 2 of P.W.-10 Bihari LaL and P.W.-11",,,

Virendra @ Tetku are untrustworthy.,,,

18. Alleged Dehati Nalishi Ex.P-10 lodged quickly without delay. In Ex. P-10 it has been mentioned that the appellants entered in the shop of,,,

complainant, explosive substance was poured and shop was set at fire.",,,

19. There is no such material available on record on strength of which it can be said that Ex. P-10 is not simple, not natural and not normal.",,,

20. Looking to the above mentioned facts and circumstances of the case, this possibility cannot be ruled out that the appellants had allegedly",,,

committed said offence on account of previous enmity.,,,

21. There is no such material available on record on strength of which it can be said that aforesaid statements of para Nos. 1 & 2 of P.W.-4,,,

Bhuvneshwari, para Nos. 1 & 3 of P.W.-6 Motimbai in that reference, para No.1 of P.W.-9 Anuj Ram, para Nos. 1 & 2 of P.W.10 Bihari Lal and",,,

P.W.-11 Virendra @ Titku are not simple, not natural and not normal. Thus, this Court believes on them and disbelieves aforesaid statements of D.W-"",,,

1 Narottam, D.W.-2 Raju, D.W.-3 Salik Ram, Ex. D- 4, in the reference that the appellants allegedly had not committed any offence."",,,

22. After the appreciation of the evidence discussed here before, this Court finds that prosecution has succeeded to prove beyond reasonable doubt"",,,

the charge punishable under Section 436 of IPC against the appellants. Thus, the aforesaid conviction of appellants of trial Court is affirmed."",,,

23. So far as sentence is concerned, the appellants have served some jail sentence. About 20 years have passed from the date of incident. At the time"",,,

of incident, the appellant No.1- Netram was aged about 22 years, now he is about 42 years old, appellant No.2- Munna Khan was aged about 32"",,,

years, now he is about 52 years old. Now they are in mainstream of society. Sending them to jail would disturb their as well as their family members"",,,

life. At the time of the incident, no minimum jail sentence was provided for the offence punishable under Section 436 of IPC. Hence, no useful"",,,

purpose would be served if they are sent to jail after 20 years of the incident. Looking to these circumstances and observation made by Hon'ble",,,

Supreme Court in the matter of Manjappa -v- State of Karnataka [(2007) 6 SCC 231] this Court is of the opinion that cause of justice would be sub-,,,

served, if RI for five years for the offence punishable under Section 436, IPC to both the appellants is reduced to the sentence for the period already",,,

undergone by them and fine amount may be suitably enhanced.,,,

24. Consequently, the appeal is partly allowed. The sentence of the each appellant under Section 436, IPC for five years is reduced to the period",,,

already undergone by them and fine amount of Rs.5,000/- of each appellant is enhanced to Rs.25,000/- (Rupees twenty five thousands only), in default",,,

of payment of fine, each of them would further undergo additional RI for one year.",,,

25. The appellants are granted two months' time from the date of this judgment for depositing the fine amount. The fine amount deposited earlier by,,,

the appellants shall be adjusted in the fine amount of Rs.25,000/- imposed on each appellant.",,,

26. After the prescribed period of legal remedy available to the parties, Rs.40,000/- (Rupees Forty thousands only) out of the total fine amount of",,,

Rs.50,000/-, if deposited, be given to the complainant as compensation.",,,

27. The appellants are reported to be on bail. Their bail bonds stand cancelled subject to the provisions of Section 437-A, Cr.P.C.",,,