

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (SJ) No. 699 of 2005

[Against the judgment and order of conviction and sentence dated 18.02.2005 & 23.02.2005 respectively, passed by learned Additional Sessions Judge, Fast Track Court No.8, Hazaribagh, in Sessions Trial No. 149 of 2003]

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1. Mohan Kumar Bhokta @ Mohan Bhokta, son of Sri Kali Ganjhu, resident of Village-Kurra, P.S.-Gidi, District-Hazaribagh
 2. Lok Nath Ganjhu, son of Bhola Ganjhu, resident of Village-Kasmar, P.S.-Mandu, District-Hazaribagh

... .. **Appellants**

Versus

The State of Jharkhand

... .. **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants	: Mr. Nawin Kumar, Advocate Mr. Arvind Prajapati, Advocate
For the State	: Mrs. Priya Shrestha, Spl.P.P. (through V.C.)

JUDGMENT

Dated: 07th August, 2026

By Court: Heard Mr. Nawin Kumar, learned counsel for the appellants and Mrs. Priya Shrestha, learned Spl.P.P. for the State.

2. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 18.02.2005 & 23.02.2005 respectively, passed by learned Additional Sessions Judge, Fast Track Court No.8, Hazaribagh, in Sessions Trial No. 149 of 2003, whereby and whereunder the appellants have been held guilty for the offence under Sections 395 and 412 of the I.P.C. and sentenced to undergo R.I. for 7 years along with fine of Rs.1000/- each with default stipulation for the offence under Sections 395 of the I.P.C. No separate sentence has been awarded under Section 412 of the I.P.C. as the sentence imposed under Sections 395 of the I.P.C. indicated above would serve the purpose.

Factual Matrix

3. Factual matrix giving rise to this appeal as per *fardbeyan* of the informant, Amit Kumar stating *inter alia*, that he along with his family members were sleeping on 19.12.2002 at about 2.15 A.M. in the night, somebody knocked his door and called by his name. As soon as he opened the door, three persons entered his room along with his father. They introduced themselves as terrorist and asked about gun. At that time, the electric light was on. Thereafter, the miscreants forced them to sit on the floor and they started searching for the gun. They broke open the locks of a box and scattered the articles and took Rs. 5000/- and a Sonata wristwatch kept in the box. Thereafter, the miscreants took them to downstairs. The informant further alleged that on the ground floor, four other miscreants were also searching the box belonging to his mother and they took some ornaments kept in the box. It is further alleged that the miscreants demanded more money on the point of revolver and threatened them with dire consequence. Thereupon, his father told them to see Godrej almirah kept in the shop. Thereafter, the miscreants took the informant and his father to the shop and they took Rs 35,000/- kept in the almirah. During the course of the incident, one of the miscreants sustained injuries from the broken glass of the almirah. The miscreants also took away general goods from the shop including a new Eveready torch, Clinic Plus shampoo, Ponds Cold Cream, Fair & Lovely, soaps, some hair oils and other articles. One of the miscreants carried all the articles in a cloth. The miscreants also took away silver coins from the box

belonging to the informant's mother and coin worth Rs 6,000/- from the shop. It is further alleged that when one of the accused sustained injuries on his wrist from the broken glass, the cloth covering his face slipped and another miscreant, who was holding the articles in a cloth also had loosened his face covering. In that course, both the miscreants, namely Mohan Kr. Bhokta and Loknath Ganjhu were identified by the informant's father but at that time he did not disclose anything. The informant claimed to have been identified all the accused persons as they were seen in the electric light. It is further alleged that the miscreants were calling one another by the names Karma, Dinesh, Binod @ Singhji, Prakash and Salim. It is alleged that six of the miscreants were having country made pistol and one was carrying a bomb. At the time of their departure, the miscreants told that they had placed a bomb at the door, which would explode if touched and they have also disconnected the telephone by cutting wire. However, when the miscreants left the place, the informant raised *hulla* whereupon the neighbouring people arrived and freed them. The informant claimed to have identified the miscreants and the stolen articles.

On the basis of *fardbeyan* of the informant, Mandu (West Bokaro) P.S. Case No. 461 of 2002 was registered for the offence under Section 395 of the I.P.C. against the accused persons.

4. After completion of investigation, charge-sheet was submitted against the accused persons for the offence under Sections 395 and 412 of the I.P.C. Accordingly, cognizance was taken and subsequently,

the case was committed to the Court of Sessions, where Sessions Trial No. 149 of 2003 was registered. The charges were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

5. In the course of trial, altogether 7 witnesses were examined by the prosecution:-

- (i) *P.W.-1-Sudama Kunwar*
- (ii) *P.W.-2-Mahesh Prasad*
- (iii) *P.W.-3-Bidya Prasad*
- (iv) *P.W.-4-Amit Kumar (Informant)*
- (v) *P.W.-5-Pankaj Kumar*
- (vi) *P.W.-6-Bipin Oraon*
- (vii) *P.W.-7-Arbind Kumar Sinha (I.O.)*

Apart from oral testimony of witnesses following documentary evidences have also been adduced by the prosecution:-

- (i) *Exhibit-1 to 1/B-Signatures on the fardbeyan*
- (ii) *Exhibit-2-Fardbeyan*
- (iii) *Exhibit-3-Seizure list (Xerox copy)*
- (iv) *Exhibit-4-Formal F.I.R.*

6. On the other hand, one defence witness, namely Dev Charan Ganjhu (D.W.-1) has been examined by the defence. However, no documentary evidence has been adduced by the defence.

7. After conclusion of trial, the appellants were held guilty for the offence under Sections 395 and 412 of the I.P.C. and sentenced as stated above which has been assailed in this appeal.

Submissions on behalf of appellants: -

8. Learned counsel for the appellants without touching the merits of the judgment has confined his argument towards the quantum of sentence awarded to the appellants. It is submitted that the appellants have been convicted for the offence under Section 395 of the I.P.C. and no separate sentence has been passed under Section 412 of the I.P.C. Although, some household articles like Pond's Cold Cream, Clinic Plus shampoo, Fair & Lovely cream, Lifebuoy soaps, Nihar hair oil, kismis one packet, one camera with its foam cover and five pieces of Eveready two cell and jeep company torch etc. have been alleged to be recovered. It is further submitted that the appellants have remained in custody for more than three years and six months and have sufficiently been punished for their guilt and again sending the appellants for sustaining rest period of imprisonment would yield no useful purpose. Learned counsel submits that the occurrence is of the year 2002 and now more than two decades have passed from the date of occurrence. Hence, the sentence awarded to the appellants may be reduced to the imprisonment already undergone by them to meet the ends of justice in this case.

Submissions on behalf of State: -

9. On the other hand, learned Spl.P.P. has opposed the aforesaid contentions raised on behalf of appellants and submitted that the appellant No.1 has one criminal antecedent, whereas the appellant No.2 has two criminal antecedents. Therefore, no leniency in the matter of reducing the sentence may be taken in favour of the

appellants.

Analysis, discussions and reasons:-

10. I have gone through the impugned judgment and order along with the record of the case in the light of rival contentions of the learned counsel for the respective parties.

11. Upon careful consideration of the oral and documentary evidence on record, this Court finds that the prosecution has proved beyond reasonable doubt that soon after the occurrence both accused persons were apprehended and from the house of accused stolen articles and firearms were recovered from their conscious possession which are entered in the seizure list marked as Exhibit-3. The testimony of P.W.-7, the Investigating Officer regarding the recovery has remained unshaken and is duly corroborated by P.W.-1 and P.W.-4, who identified the seized articles as those looted during the commission of the *dacoity* and by P.W.-6, who has proved the Test Identification Parade of the seized articles. The evidence of P.W.-1, P.W.-4, P.W.-6 and P.W.-7 is consistent, cogent and trustworthy and no material contradiction has been elicited during their cross-examination. Accordingly, this Court finds that the prosecution has successfully proved the guilt of the appellants beyond all reasonable doubt. Consequently, the conviction of the appellants for the offence under Sections 395 and 412 of the I.P.C. is hereby upheld and affirmed.

12. Considering the facts and circumstances of the case, the nature of offence alleged to have been committed by the appellants and also

in view of the fact that the appellants have already remained in custody for more than three years and six months during the pendency of trial and post-conviction, it appears to be sufficient punishment for their guilt for the offence committed by them and their sentence is reduced from R.I. of 7 years to the imprisonment already undergone by them during trial of the case.

13. Accordingly, this appeal is **dismissed on merits with modification in sentence** as stated above.

14. Appellants are on bail, as such they are discharged from the liability of bail bonds and sureties are also discharged.

15. Pending I.A(s), if any, is also disposed of accordingly.

16. Let a copy of this judgment along with Trial Court Record be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

07.08.2026

Arpit

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