

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No. 16 of 2015.**

Ishwar Yadav, Son of Dhrup Lal Yadav, aged about 22 years, R/o Village Reda,
Police Station Sarangarh, District Raigarh, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, Through Police Station Sarangarh, District Raigarh, Chhattisgarh.
2. Vijay Nand Sharma, Son of Dhaneshwar Prasad Sharma, aged about 47 years, R/o Village Reda, Police Station Sarangarh, District Raigarh, Chhattisgarh.
3. Jaynand Sharma, Son of Vijay Nand Sharma, aged about 19 years, R/o Village Reda, Police Station Sarangarh, District Raigarh, Chhattisgarh.

---- Respondents.

For Appellant	:	None
For State	:	Shri Ravindra Agrawal, Panel Lawyer.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Navin Sinha, Chief Justice****12/08/2015**

1. No one appeared on behalf of the Appellant in pre-lunch session. None is present in the post-lunch session also.
2. The present is an appeal against acquittal of Respondents No.2 and 3 of the charge under Section 307/34 IPC. Conviction has been ordered under Sections 323/34 and 324/34 IPC.
3. Learned Counsel for the State has assisted us in the matter submitting that the intention has to be gathered from the nature of weapon of assault which was a knife and that injuries were caused on the chest, a sensitive part of human body. It was next submitted that Dr. R.K. Sharma (PW-16) had

opined that the injuries were grievous in nature by his report Exhibit P-19.

4. We have considered the submissions.

5. Intention has to be gathered cumulatively from all the surrounding circumstances such as weapon of assault, nature of assault, part of the body on which it is made, number of times assault is made etc. One item amongst the same cannot be picked-up alone to decipher the intention. Dr. M.K. Manhar (PW-15) had opined that the injury caused by the knife was simple in nature. PW-16 had opined that the injury was on the left side of the chest, below shoulder and under the bone. In the cross-examination, he has acknowledged that the victim was fully conscious when he came leading the Court to conclude that the injury was not grievous in nature. If there are two conflicting opinions of the two doctors, we see no fault in the Trial Judge having accepted and acted upon that favourable to the accused.

6. The appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE