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C. 152

IN THE CHHATTISGARH HIGH COURT AT BILASPUR (C.G.)

CRIMINAL APPEAL NO. 71 /2002

SB.

APPELLANT

ACCUSED

Goya, S/o. Chamra Yadav,
aged about 20 years, R/o. Village-
Munjla Sadakpara – P.S.
Bhanpuri, Distt. Bastar (C.G.)

Filed on 12-1-02
by Sri Anand Mishra
Advocate
R. to RCT

VERSUS

RESPONDENT

PROSECUTION

The State of Chhattisgarh

**CRIMINAL APPEAL UNDER SECTION 374(2) OF THE CODE OF CRIMINAL
PROCEDURE, 1973**

8/12/15

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal Appeal No. 71 of 2002

Appellant : Goya

Versus

Respondent : State of Chhattisgarh

For Pronouncement of Judgment

04.02.2015

Sd/-
Inder Singh Uboweja
Judge

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Cr.A.No.71/02

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal Appeal No. 71 of 2002

APPELLANT : Goya

VERSUS

RESPONDENT : The State of Chhattisgarh

[Criminal Appeal u/s 374 (2) of the Code of Criminal Procedure,
1973]

Present:

Mr. Avinash K. Mishra, Advocate for the appellant.
Ms. Sangeeta Mishra, Panel Lawyer for the State.

SB: Hon'ble Mr. Inder Singh Uboweja, J.

J U D G M E N T

(Delivered on ..04... February, 2015)

1. This appeal is directed against the judgment of conviction and order of sentence dated 20.12.2001 passed by the 3rd Additional Sessions Judge, Bastar at Jagdalpur in Sessions Trial No. 447/2001 convicting the accused / appellant under Section 324 of the Indian Penal Code (for short, 'the IPC') and sentencing him to undergo rigorous imprisonment for three years with fine of Rs.1,000/-, in default, additional S.I. for two months.
2. Case of the prosecution, in brief, is that on 22.06.2001 at about 8.30 p.m., complainant Jayo Yadav (PW-1) of the village Munjla was present in his house, he saw that accused appellant, having armed with axe, entered his house and assaulted him, as a result of which, the complainant sustained injuries. Thereafter, he reported the incident to the police station.

3. After completion of investigation charge sheet was filed by the police for the offence punishable under Sections 307 and 324 of the IPC.

4. So as to hold the accused / appellant guilty, prosecution has examined seven witnesses in support of its case. Statement of the accused / appellant was also recorded under Section 313 of the Code of Criminal Procedure, 1973 (for short, 'the Code') in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

5. After providing an opportunity of hearing to the parties, the trial Court has convicted and sentenced the accused / appellant as mentioned above.

6. I have heard learned counsel for the parties and perused the material available on record including the judgment impugned.

7. Learned counsel for the accused / appellant submits that as regards the charge under Section 324 IPC, he is not disputing the conviction of the appellant that the accused / appellant assaulted the complainant and caused a cut injury on left side of head and another injury, which is a swollen on left maxilla bone. Both injuries were simple in nature. He further submits that the accused / appellant has already undergone the jail sentence for a period of 27 days and he has been facing judicial proceeding since May 2001 and if at all his conviction u/s 324 is maintained, sentence imposed on him may be

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reduced to the extent of the period already undergone by him and fine amount may be enhanced.

8. On the other hand, learned State counsel opposed the appeal and supported the judgment of conviction and order of sentence passed by the trial Court.

9. Considering the entire evidence adduced on behalf of the prosecution which is sufficient and acceptable. The prosecution duly proved the guilt of the appellant, I am of the view that the trial Court has rightly convicted the appellant under Section 324 of the IPC and I hereby affirm the judgment of conviction against the appellant.

10. So far as the quantum of sentence is concerned, the appellant served 27 days jail sentence awarded to him. The appellant is facing the criminal proceedings and contesting the litigation for the last more than 13 years, therefore, it would be proper and just to reduce the sentence of imprisonment imposed to the appellant.

11. Looking to the totality of the circumstances appeared before this Court, I am of the view that no purpose would be served in sending the appellant back to jail as the object of criminal justice would be served in awarding the sentence already undergone by him.

12. Consequently, the appeal is partly allowed. Conviction of the appellant under Section 324 of the IPC awarded by the trial Court is hereby affirmed, but his sentence awarded by the trial Court is

modified and instead of R.I. for three years, he is sentenced to undergo imprisonment for the period already undergone by him. However, as regards sentence of fine, he may be adequately sentenced with fine of Rs.5,000/-. The appellant shall pay remaining amount of Rs.5,000/- in addition to the fine already imposed on him by the trial Court within a period of 60 days from today before the trial Court.

Sd/-
Inder Singh Uboweja
Judge

chandra