

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL APPEAL NO. 559 OF 2001

1. Dular Sai, S/o Hublal, aged about 22 years
2. Jayman Bai, W/o Hublal, aged about 48 years

Both R/o Village Madhora, Police Station Sonhat, District Korla
(C.G.)

... Appellants

Versus

- The State of Chhattisgarh, through P.S. Sonhat, District Korla
(C.G.)

... Respondent

For Appellants	:	Mr. Shakti Raj Sinha, Advocate.
For Respondent-State	:	Mr. U.K.S. Chandel, Panel Lawyer.

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

Judgment on Board

Per NAVIN SINHA, C.J.

19/02/2016

1. The present appeal arises from conviction dated 9.6.2001 in Sessions Trial No. 67 of 2001 ordered by the First Additional Sessions Judge, Baikunthpur.
2. The two Appellants are son and mother respectively. The deceased was the brother-in-law of Appellant No.2. There was a land dispute between them.
3. Appellant No.1 was convicted under Section 302 IPC to life imprisonment and Appellant No.2 was convicted under Section 201 IPC to rigorous imprisonment for one year for having hid the "farsi" used for assault.

4. Learned Counsel for the Appellants submits that Appellant No.1 has undergone the period of custody and has been released subsequently. He has no instructions to press the appeal on his behalf. The appeal is disposed as infructuous with regard to Appellant No.1.

5. With regard to Appellant No.2, it is submitted that the Trial Judge has arrived at the conclusion that there was no evidence of her having used the farsi for assault but only that she retrieved it from the place that Appellant No.1 had hidden it and then hid it elsewhere from where it was recovered on her confession. She has already undergone custody of a litter over three months.

6. Learned Counsel for the State submits that blood has been found on the farsi in the forensic report, recovered on the confession of Appellant No.2. The seizure has been proved by PW-8, Pawan Sai, who admitted his signature on the seizure memo.

7. We have heard Learned Counsel for the parties.

8. The only issue before us is regarding the sentence of Appellant No.2. The Trial Judge has arrived at the finding that the case of the prosecution was based on circumstantial evidence. Blood was found on the clothes of Appellant No.1 alone and there was no recovery of bloodstained clothes from Appellant No.2. The only allegation and finding against her is that she retrieved the farsi from the place earlier hidden by Appellant No.1 and hid it at another location, from where it was retrieved on her confession.

9. Considering that there is no role attributed to her in the assault, the fact that the parties were related and there was a land dispute between them, the murderous assault was attributed to Appellant No.1 alone, that the occurrence took place on 26.11.2000 more than fifteen years ago and that Appellant No.2 would be approximately 63 to 64

years of age today, no useful purpose is going to be served by directing her incarceration for the full period of one year as directed by the Trial Judge.

10. For reasons as discussed above, we consider it prudent in the facts and circumstances of the case to reduce the sentence of Appellant No.2 to the period already undergone.

11. The appeal is allowed with the aforesaid modification of sentence with regard to Appellant No.2 alone.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge