

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 859 of 2012

- Tudeshwar Ram alias Tuleshwar Yadav son of Budhu Ram Yadav, aged about 35 years, Occupation Agriculture, residence of village Tatkela, Police Station Bagicha, District Jashpur, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through PS Bagicha, Distt. Jashpur C.G.

---- Respondent

For appellant	:	Shri Harish Khuntiya, Advocate
For Respondent/State	:	Shri Adil Minhaj, PL

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

22/01/2016

This appeal is directed against the judgment and order dated 29.08.2012 passed by Additional Sessions Judge, Jashpur, District Jashpur in Sessions Trial No. 34/2012 convicting the accused/appellant under Sections 458 and 324 of the Indian Penal Code and sentencing him to undergo rigorous imprisonment for five years with fine of Rs. 2000/- u/s 458 and rigorous imprisonment for one year with fine of Rs. 1000/- u/s 324 IPC, plus default stipulations.

2. As per the case of prosecution, on 5.8.2011 when complainant Jema Bai (PW-1) was sleeping with her husband and daughter, she noticed fire in the loft of her house. She also noticed the sari worn by her as also the arm of her daughter Pratima catching fire. Complainant is also said to have seen the accused/appellant running away from the spot. On the basis of FIR lodged by the complainant, offences under Sections 452, 307 and 285 IPC were registered against the appellant. After completion of investigation, charge-sheet was filed by the police for the offences punishable under Sections 458, 307 and 285 followed by framing of charge u/s 458 and 307 IPC.

3. In order to prove the guilt of the accused/appellant, prosecution has examined 07 witnesses in support of its case. Statement of the accused/appellant was also recorded under Section 313 of the Code of

Criminal Procedure in which he denied his guilt and pleaded innocence and false implication in the case.

4. After hearing the parties, the Court below has convicted and sentenced the accused/appellant as mentioned in paragraph No.1 of this judgment.

5. Counsel for the accused/appellant submits that the appellant is in jail since 04 years, 05 months and 11 days whereas the sentence imposed by the Court below is imprisonment for five years. According to him, he is not pressing the appeal as far as it relates to conviction and is confining his argument for reducing the sentence to the period already undergone by him, for which the appellant is ready to adequately compensate the complainant (PW-1).

6. Counsel for the respondent/State submits that he has no objection to the above proposition put forth by the counsel for the appellant.

7. Heard counsel for the parties and perused the material available on record.

8. Jema Bai (PW-1) has stated in her evidence that on the date of incident at about 12 in the night when she was sleeping with her husband and daughter, she noticed the loft of her house catching fire. According to this witness, she noticed that the sari worn by her had also caught fire and that she had seen the accused/appellant running away from the spot. This witness has further stated that about a year prior to the date of incident, the accused/appellant wanted to get her, for which she had scolded him and also lodged the report against his act. After the report lodged by her, the accused/appellant is also stated to have inflicted knife injuries to her. She has further stated that after hearing the cries raised by her, members of her family came there whom she narrated the entire incident. In cross examination also this witness remained firm to the things stated by her in the examination-in-chief. Bhesan Ram (PW-2) – the husband of the complainant has also supported the case of the prosecution stating about the manner in which the loft of his house and the clothes etc. caught fire. Pratima Yadav (PW-3) – aged about 12 years has also supported the case of the prosecution. Falinder Yadav (PW-4) is a hearsay witness according to whom it was told by Bhesanram that the accused/appellant had set his bedding on fire after pouring petrol. Dr. (Smt.) V. Basla (PW-5) is the witness who medically examined Jema Bai (PW-1) and Pratima (PW-3) and gave her report Ex. P-3 and P-4 respectively stating that she noticed simple burn injuries on their body which could heal within 7-10 days. Gangadhar Yadav (PW-6) is the witness to seizure of bottles and slippers made under Ex. P-5 and P-6 from

the spot. Pilvanram Bhagat (PW-7) is the investigating officer who has duly supported the case of the prosecution.

9. Close scrutiny of the material available on record particularly the evidence of PW-1, PW-2 and PW-3 including that of the doctor (PW-5) goes to show that the accused/appellant after entering into the house of complainant set fire on the loft in which the complainant and her minor daughter had sustained injuries. In view of this, the Court below appears to have been justified while convicting the accused/appellant as mentioned above. Even otherwise, the accused is not pressing conviction part of the judgment impugned and lays his stress only on the sentence part of the same.

10. In view of above, conviction part of the judgment impugned is hereby maintained. As regards sentence, keeping in mind the fact that accused/appellant has already remained in jail for about 4 years and 6 months and that he is ready to adequately compensate the complainant, it is reduced to the period already undergone by him. This reduction of sentence would be available to the appellant only after he deposits Rs. 25,000/- in the Court below to be paid to the complainant as compensation in terms of the provisions of Section 357 Cr.P.C.

11. Appeal is thus allowed in part.

Sd/-

(Pritinker Diwaker)
Judge