

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1589 of 2015

1. Jitendar Singh alias Jinda S/o Gajjan Singh Sikh, Aged about 40 years, R/o Kutba, Thana Sangrur Punjab, presently residing at Aidu, Thana Chal, District Raigarh, Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh through PS Kharsiya, Raigarh, District Raigarh, CG

---- Respondent

For Appellant	-	Shri Alok Dewangan, Advocate.
For Respondent	-	Shri Adil Minhaj, PL

Hon'ble Shri Justice Pritinker Diwaker

Judgment on Board

05/05/2016

This appeal is directed against the judgment and order dated 03.11.2015 passed by Additional Sessions Judge Raigarh, in Sessions Trial No. 44/2013 convicting the accused/appellant under Sections 307 IPC and 25 Arms Act and sentencing him to undergo rigorous imprisonment for five years with fine of Rs. 500/- u/s 307 IPC and rigorous imprisonment for three years with fine of Rs. 500/- u/s 25 Arms Act, plus default stipulations.

2. Case of the prosecution in brief is that on 25.01.2013 at 9.45 AM the accused/appellant caused number of injuries on the vital parts of Sanjit Singh (PW-1) with sword. Immediately after the incident the injured was taken to Government Hospital, Kharsia for treatment; Dehati Nalisi (Ex. P-3) was recorded at the instance of

Soukin Singh (PW-3) and then FIR Ex. P-11 came to be registered against the accused/appellant for the offences punishable under Sections 307 IPC and 25 Arms Act. Injured was medically examined by Dr. (Smt.) Lalita Rajnala (PW-5) who gave her report Ex. P-5A stating that she noticed five incised wounds on his body. After completion of investigation, charge sheet was filed by the police for the offence punishable under Sections 307 IPC and 25 Arms Act followed by framing of charge accordingly.

3. So as to hold the accused/appellant guilty, prosecution has examined 06 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 the charge levelled against him and pleaded his innocence and false implication in the case.

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

5. Counsel for the accused/appellant submits that the eyewitnesses namely Soukin Singh (PW-3) and Karamvir Singh (PW-4) on whose statements the conviction of the accused/appellant is based have not supported the case of the prosecution and have been declared hostile and therefore the trial Court has committing an illegality in convicting him relying on the statements of hostile witnesses. He submits that the prosecution has not been able to establish the fact that it is the

accused/appellant who assaulted the victim and therefore also his conviction is bad.

6. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that the findings recorded by the Court below convicting the accused/appellant under Sections 307 IPC and 25 Arms Act are strictly in accordance with law and there is no infirmity in the same.

7. Heard counsel for the parties and perused the evidence on record.

8. Sanjit Singh (PW-1) - the injured has stated in his evidence that on the date of incident at about 9-10 AM Karamvir Singh (PW-4) came to him and asked him to prevent accused from taking away his mother and children. Thereafter, when he accompanied him in search of the accused who met him near a petrol pump and on being asked as to why he (accused) was taking away his sister-in-law and children with him, some dispute arose in furtherance of which he took out the sword and caused injuries on his neck, mouth, forehead, right hand etc. Thereafter, he is stated to have been taken to hospital where he received medical treatment. In cross-examination also this witness has stated the same thing as in the examination-in-chief barring few contradictions. SVS Rana (PW-2) is the investigating officer who has duly supported the case of the prosecution. Soukin Singh (PW-3) and Karamvir Singh (PW-4) - the eyewitnesses to the incident have not supported the case of the prosecution and have been declared hostile. Dr. (Smt.) Lalita Rajnala (PW-5) is the witness who medically examined the victim

and gave her report Ex. P-5A stating therein that she noticed incised wound on the lower part of forehead above the eyes – 20 x 03 cm bone deep and the wound was bleeding; incised wounds on face, nose and mouth – jaw mobile; incised wound on the right hand – lower part of the thumb – 1.5 x 1.5 x 0.5 cm ; incised wound on upper portion of neck – 06 x 01 x 03 cm bone deep; incised wound on the tempo-occipital region – 8 x 01 x 03 cm bone deep. According to her, the injuries were caused by sharp and blunt object and they were grievous in nature. Gajadhar Navrang (PW-6) – the witness to seizure has also not supported the case of the prosecution and has been declared hostile.

9. A careful examination of the material available on record goes to show that on the date of incident when the victim (PW-1) went in search of the accused on being asked by Karamvir Singh (PW-4), some dispute arose between the two in which accused took out the sword and inflicted number of injuries on his vital parts. Doctor (PW-5) has categorically stated in her statement that the injuries suffered by the victim were grievous in nature and they were caused by sharp and blunt object. Right from Dehati Nalisi up to his statement recorded in the Court, the victim has been very consistent in describing the incident that it was the accused/appellant who caused number of sword blows on his body including the vital parts. May be the eyewitnesses to the incident (PW-3 and PW-4) have not supported the case of the prosecution and have been declared hostile but when the victim himself is there to put forth the agony undergone by him which gets full

support from the medical evidence, accused/appellant cannot derive any benefit of the eyewitnesses turning hostile.

10. Court below has thus been fully justified in appreciating the evidence and arriving at the conclusion of conviction of the accused. There is no illegality or infirmity in the findings so recorded by the Court below and they are accordingly affirmed. Appeal thus being without any substance is liable to be dismissed and it is dismissed as such. As the appellant is already in jail, no direction for putting him in jail etc, is needed.

11. Appeal dismissed.

Sd/-

(Pritinker Diwaker)

Judge