

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 43 of 2013

Sanatan Deep @ Sonu S/o Purnanand Deep Aged About 22 Years R/o Vill Domerpara PS Bogomunda Distt Banlangeer (Urisa), Present address. Q.No. 1-B, Servent Quarter, Street No.1, Sector 9, Bhilai, Post Civic Center, PS Bhilai Nagar Distt Durg, Cg

---- Appellant

Versus

State Of Chhattisgarh Through PS Bhilai Nagar, PS Civic Center, Distt Durg, Pin 490006

---- Respondent

For appellant	:	Mr. B.P. Singh, Adv.
For Respondent/State	:	Ms. Shobha Kashyap, Dy. GA.

Hon'ble Shri Justice Chandra Bhushan Bajpai

J U D G M E N T

21/11/2016

1. Challenge in this appeal is to the judgment of conviction and order of sentence dated 30th October, 2012 passed by the 3rd Additional Sessions Judge, Durg in Sessions Trial No. 166/2011 whereby and whereunder learned trial Court after holding the appellant guilty for committing trespass and thereafter attempting to take the life of P.W. 4 Namita Jal, convicted him under Sections 450 and 307 of the Indian Penal Code (in brevity "IPC") and sentenced him to undergo RI for 10 years with fine of Rs. 500/- and RI for 3 years with fine of Rs. 500/- respectively, in default of payment of fine to further undergo additional RI for 1 month for each count.
2. Conviction is impugned on the ground that without there being an iota of evidence, learned Court below has convicted and

sentenced the appellant as aforementioned and thereby committed illegality.

3. As per case of the prosecution, on 17-2-2011 at about 11.30 am, P.W. 4 Namita Jal, cousin of the accused/appellant was standing in front of her house. The accused/appellant came and assaulted her many blows on the pretext of exparte attraction and thereafter ran away from the spot. After the FIR being lodged, Bhilai Nagar Police registered the Crime No. 99/2011 under Section 307 of the IPC. During investigation, police seized blood stained clothes, blood stained and plane soil from the spot, prepared spot map, also obtained bed head tickets and MLC report from the concerned doctor, arrested the accused/appellant and on the basis of the disclosure statement, seized a knife. After completion of investigation, charge sheet was filed before the Judicial Magistrate First Class, Durg who registered the same as Criminal Case No. 152/2011 and committed the same vide order dated 4-8-2011. Learned 3rd Additional Sessions Judge received the case on transfer and conducted trial. Learned trial Judge framed charges under Sections 450 and 307 of the IPC read with Section 25 and 27 of the Arms Act.
4. In order to prove the guilt of the appellant, the prosecution examined 13 witnesses. Statement of the appellant was recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing against him in the prosecution case, pleaded innocence and false implication in the crime in question.
5. After affording opportunity of hearing to the parties, learned trial Court convicted and sentenced the appellant as aforementioned.

6. I have heard learned counsel for the parties and perused the record of the trial Court.
7. Learned counsel for the appellant submits that he is not contesting the appeal against conviction part. He is confining his argument only on the point of quantum of substantive jail sentence awarded to the appellant only under Section 307, IPC. He further submits that the appellant was aged about 22 years at the time of incident. He is cousin of the victim and in the pretext of exparte attraction, he inflicted many blows and except the blow on her chest, other injuries were not grievous or fatal for life. The complainant was treated and cured well in the hospital. The appellant has remained in jail for 5 years, 9 months and 4 days till date. He has deposited entire fine amount. He will not commit any offence in future. Therefore, he be sentenced to the period already undergone by him.
8. Learned counsel for the State opposed the arguments advanced on behalf of the appellant and argued that about 45 injuries were caused by the accused/appellant over the body of the complainant for no fault of her on the pretext of exparte attraction. Looking to the entire facts and medical evidence, the substantive jail sentence awarded to the appellant does not require any interference and the appeal may be dismissed on all counts.
9. In order to appreciate the arguments advance by the parties, perused the evidence adduced by the prosecution during trial.
10. The appellant is not assailing the conviction part of the judgment. Even othewise, after perusal of the statement of P.W. 4 Namita Jal, P.W. 8 Dr. S.K. Bhoi, P.W. 10 Dr. Manish Dewangan and other

witnesses, it appears that the Court below has not committed any illegality or any error in convicting the accused/ appellant for the offence under Sections 450 and 307 of the IPC. With this, conviction of the appellant for the offence under Sections 450 and 307, IPC requires no interference.

11. The appellant has been sentenced for the fine of Rs. 500/- and 500/- for both the offence and he has deposited the same. The fine sentence cannot be held as excessive and it also does not require any interference.
12. The trial Court awarded substantive jail sentence of RI of 3 years for offence under Section 450, IPC along with other substantive jail sentence with a direction that both the substantive jail sentences shall run concurrently. The appellant has served the sentence of 3 years. Therefore, the sentence of 3 years under Section 450, IPC is also not interfered with.
13. So far as substantive jail sentence under Section 307, IPC is concerned, though the accused/appellant on account of exparte affair inflicted about 45 blows by sharp edged weapon knife but except injury over chest other injuries were not fatal for her life. As the accused is the first offender, was a young boy of 22 years at the time of incident and on his behalf learned counsel for the appellant has submitted that he will not repeat any offence in future and also considering that the accused belongs to low medium income group, was earning his bread anyhow as he was driver as per arrest memo Ex. P-10, in the opinion of this Court, an opportunity should be given to him, and looking to the period already undergone i.e. 5 years, 9 months and 4 days, ends of

justice would be served if a chance for his reformation is given and he is sentenced to the period already by him.

14. Consequently, the appeal is allowed in part. Conviction of the appellant under Sections 450 and 307 of the IPC is hereby affirmed. Fine sentence awarded is also maintained. Substantive jail sentence award under Section 450, IPC is also affirmed. Substantive jail sentence of RI for 10 years awarded under Section 307, IPC is reduced to the period already undergone by the appellant.
15. The appellant is in jail. He be released forthwith if not required in any other case.
16. Copy of the judgment may be filed before the trial Court for compliance.
17. Registrar (Judicial) is also directed to send a copy of the judgment to the court below for compliance immediately.
18. Appeal partly allowed

Sd/-
(Chandra Bhushan Bajpai)
Judge