

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1553 of 2015

- Dilram S/o Chhotka Manjhi Aged About 55 Years Village - Arsena, Halra Tikra, Present Address Kesra, Police Station - Kamleshwarpur, Distt. - Surguja Chhattisgarh

---- Appellant

Versus

- State Of Chhattisgarh Through : Police Station Katghora Distt. - Korba Chhattisgarh

---- Respondent

For Appellant	:	Mr. Alok Kumar Pandey, Advocate
For State	:	Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

10/11/2016

1. The present appeal is of the year 2015. It has been filed by the Appellant assailing the judgment of conviction and sentence dated 11.08.2015 passed by the Additional Sessions Judge, Katghora, in S.T. No. 01/2014.
2. Counsel for the Appellant who has been appointed through legal Aid services Authority submits that this Court while admitting the appeal on 30.08.2016 had suspended sentence and granted bail to the Appellant. Further he has received instruction through the Legal Aid Department that the Appellant could not furnish the bail bond and he is still languishing in jail. Learned Counsel for the appellant in the given circumstances of the case prays that the appeal may be heard finally.

3. Learned Counsel for the appellant at the outside submits that he does not find the case strong enough for arguing on the question of acquittal as the statement of the injured witness is against the present appellant. The sole prayer made by the Counsel for the Appellant is that taking into consideration there was only one blow which has been inflicted by the present appellant on the injured PW-1 Jangi Ram and that there was no other injury and in addition relationship between the appellant and the injured person is that of brother-in-law as the present appellant is the brother of the injured PW-1 Jangi Ram's wife.
4. It is further contended that the dispute arose on a trivial issue of brakeing mango from the field, out of which heated argument took place between the two and in a spur of moment the appellant made the assault on the injured PW-1 with Tangi. Considering the same the sentence imposed upon the appellant may be reduced to the already undergone. He further submits that the present appellant is in jail continuously since the date of arrest i.e. 11.08.2013 as such has already remained in custody for about 3 years and 3 months out of total sentence of 5 years imposed by the trial Court.
5. Learned Counsel for the appellant relies upon the judgment of the Supreme Court in case of **Ram Singh v. State of Madhyapradesh** reported in 2012 CrLJ 2178 wherein the Supreme Court in a case under Section 307 IPC has reduced the sentence part from five years to two years of R.I. in the instant case the Petitioner has already undergone sentence part more

than 3 years therefore the sentence part may be reduced to the sentence already undergone by him.

6. Learned State Counsel however opposing the Appeal submits that the sentence part does not deserve any leniency on the ground that the appellant has assaulted the injured PW-1 with Tangia and the injuries sustained by PW-1 is on the vital part of the body i.e. on the neck region. Therefore, the appeal deserves to be rejected without any relaxation whatsoever.
7. Considering the submission put forth by the Counsel on either side and on perusal of the record what is clearly reflected is that admittedly the appellant herein is brother-in-law of the injured PW-1, Jangi Ram. The dispute between the two was on account of braking of mango fruit from the field. Further it is also not in dispute that the present appellant had inflicted only one injury on the injured as is evident from the statement of the Doctor, PW-3 Rudra Pal Singh who has accepted the fact that there was only one injury casted on the injured person that on the neck region.
8. Considering the factual circumstances of the case particularly keeping in view the period of custody already undergone by the Appellant i.e. 3 years and 3 months and also the fact that the dispute between the parties was on account of a very trivial issue of braking of mango fruit, further looking into the relationship of the appellant with the injured this Court is of the opinion that the conviction of the appellant for the offence under Section 307 IPC is liable to be maintained however the sentence part deserves to be and is accordingly interfered with and reduced to the period already undergone.

9. Accordingly, it is ordered that the conviction of the appellant for the offence under Section 307 is affirmed however the sentence part is modified to the extent of it being reduced to the period already undergone.
10. Let the legal aid department take prompt steps to ensure the communication of this order to the appellant at the earliest.
11. With the aforesaid modification in the sentence part the present appeal stands dismissed.

Sd/-

(P. Sam Koshy)
Judge