

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.07 of 2009**

Kameshwar @ Podiha @ Bablu Yadav, aged about 21 years, son of Ramdhani Yadav, R/o village Ragda, PS Surajpur, District Surguja (CG).

---- Appellant

Versus

State of Chhattisgarh, through Police Station, Surajpur (CG).

---- Respondent

For Appellant	:	Shri RJ Jaiswal and Smt. Ranjana Jaiswal, Advocate.
For respondent/State	:	Shri Anupam Dubey, Deputy G.A.

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

11.11.2017

1. The appellant stands convicted for the offence punishable under Section 3(2)(3) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and have been sentenced to undergo RI for 2 years with fine of Rs.20,000/- with default stipulation, vide judgment dated 12.11.2008 passed by the Special Judge (Atrocities) in Special Sessions Case No.43/2008.
2. The case of the prosecution is that, the present appellant is said to have set on fire the tractor belonging to the complainant PW-1, Amar Singh Gond, on 21.02.2008 and the said incident was witnessed by the villagers. An FIR in this regard was also lodged and after investigation, the appellant was arrested and a case registered against the appellant for the aforesaid offence.

3. There was 6 witnesses examined on behalf of the prosecution side whereas, no witness was examined on behalf of defence. The learned Special Judge after completion of trial vide the impugned judgment, finding the appellant to be guilty of having committed the offence, convicted and sentenced him as mentioned in paragraph 1 of this judgment.
4. Learned counsel for the appellant assailing the impugned judgment of conviction submits that the sentence awarded by the court below is excessive as offence does not seem to have been proved conclusively inasmuch as except PW-6 there is no one who has been examined and supported the case of the prosecution. Thus, prayed for setting aside of the impugned judgment.
5. The State counsel opposing the appeal submits that it is a case where the prosecution has proved its case beyond all reasonable doubts inasmuch as six witnesses were examined and more than 12 documents were also exhibited and the case of the prosecution stands fully proved from the examination of the eyewitness PW-6, Chintamani. Thus prayed for rejection of the appeal.
6. Having heard the rival contentions put forth on either side and on perusal of records, the incident that took place on 21.02.2008 is not in dispute. PW-1 being owner of tractor and trolley bearing registration Nos. CG-15-A 3586 and 3587 is also not in dispute. PW-6, Chintamani is the witness who has seen the present appellant setting on fire the Tractor of the complainant. He has also given the minute details which he had seen at the time of incident and the specific role played by the

present appellant and there is not much which has been extracted from the cross examination of the said eyewitness to doubt or disbelieve the witness.

7. Thus, In the light of the evidence of PW-6, Chintamani, this court has not hesitation in reaching to the conclusion that the findings of the trial court in holding the appellant guilty seems to be just, proper and legal and does not warrant any interference.
8. Thus, this court does not find any strong case made out by the appellant for setting aside the impugned judgment of conviction nor does this court finds any illegality or infirmity or the findings of the court below to be contrary to evidence.
9. Accordingly, the appeal fails and is rejected. At this juncture, it is necessary to mention that a report has been received that the appellant having been completed his jail sentence have already released from jail on 09.05.2010 after having got certain relaxation/remission in his sentence, thus, no further steps is required to be taken.
10. Accordingly, the appeal stands dismissed.

Sd/-
(P.Sam Koshy)
Judge