

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 590 of 2011**

(Arising out of judgment dated 15.4.2011 in ST No.147/2010 of the learned Sessions Judge, Janjgir Champa)

- Narayan Sahu, son of Shyamlal Sahu, aged about 35 years, resident of Thakurdiya, P.S. Nawagarh, District Janjgir Champa (CG)

---- Appellant

Versus

- State Of Chhattisgarh, through Police Station Nawagarh, District Janjgir Champa (CG)

---- Respondent

For Appellant : Shri Deepak Jain, Advocate.

For Respondent : Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra

Judgment On Board

09/09/2017

1. The appellant has been convicted under Section 307 of the IPC on two counts and sentenced to undergo RI for 5 years & to pay a fine of Rs.1,000/-, in default of payment of fine to further undergo RI for 3 months on each count on account of causing injuries dangerous to life to Bhuribai and Neelkanth. The sentences have been directed to run concurrently.

2. The appellant's counsel is not available, therefore, for expeditious disposal of the appeal, this Court would appoint Shri Deepak Jain, Advocate, who is in the panel of the lawyers prepared by the High Court Legal Aid Committee to argue the appeal on behalf of the appellant. The appellant is otherwise in jail from the date of occurrence i.e. 30.6.2010, therefore, he has already undergone the entire jail sentence because he was never released on bail either by the trial Court or by the appellate Court.
3. Learned counsel for the appellant would submit that the prosecution case is full of material contradictions and omissions. Recovery of weapon is doubtful and the evidence of injured witnesses is not corroborated by the independent witnesses, therefore, conviction deserves to be set aside.
4. Per contra, learned State Counsel would support the impugned conviction. He would read the evidence in extenso.
5. According to the prosecution, the appellant was abusing Melabai, daughter of injured Neelkanth, aged about 70 years on public road. Melabai informed her parents injured Neelkanth and Bhuribai about the incident on which the injured were proceeding towards the house of the appellant to persuade him to desist from abusing their daughter. When they reached near the appellant's house, the

appellant came out with weapon iron Bhujali and inflicted repeated blows on the person of Neelkanth and Bhuribai. The incident was witnessed by Anil Sahu, Melabai, Ramshilabai and other villagers. The report was lodged on the date of the incident itself.

6. The injuries sustained by the injured persons have been proved by Dr. Rajendra Kumar Singh (PW-8).
7. In the medical examination of Bhuribai, aged about 65 years, she was found to have sustained the following injuries:-

“(1) incised wound of size 1½” x 2 mm x 5 mm on scalp over left fronto parietal region.

(2) Incised wound of size 2 x ½” x boned deep on left frontal region of scalp piece. Fractured bone of left frontal of skull seen.

(3) Incised wound of size 2 x ½” x 3 mm on lower part of left ear.

(4) blood clots on skull, face, neck, ears, shoulders, chest, upper limbs, abdomen and on clothes.

(5) incised wound of size 4” x 4” x 2½” on left side of lateral part of neck below left ear, below left mastoid.”

8. Similarly injured Neelkanth, aged about 70 years, has sustained the following injuries:-

“(1) incised wound of size 1½” x ½” x 1” on right side of face over right cheek and right maxillary region.

(2) Incised wound of size 1½” x ½” x 1” on left side

of face, over left angle of mandible, left shape oblique.

(3) Incised wound of size 5" x 3" x ½" on right shoulder region over upper part of right humerus and on right shoulder joint.

(4) fracture of upper part of humerus and shoulder joint seen.

9. Bhuribai was also sent for C.T. scan on which her frontal bone was found to have sustained fracture. C.T. scan report is Ex.-P/19.
10. The prosecution case has been proved by injured Neelkanth (PW-1) and Bhuribai (PW-2) duly supported and corroborated by the evidence of independent witness Anil Sahu (PW-3) and Melabai (PW-4). Similarly, medical reports including the radiological report has been proved by (PW-8) Dr. Rajendra Kumar Singh.
11. In view of the abundance of evidence against the appellant, the present is a fit case where the prosecution has successfully proved the offence against the appellant.
12. At this stage, learned counsel for the appellant would argue that considering the manner in which the injuries were inflicted, there was no intention to commit murder, therefore, conviction for attempting to commit murder is not justified.
13. To appreciate the submission, it is required to appreciate the nature of injuries, part of the body chosen by the appellant to inflict the

injuries together with other obtaining circumstances. It is also to be kept in mind that the injured persons were aged about 70 and 65 years respectively whereas the appellant was a young person aged about 35 years at the time of occurrence. He has used the iron Bhujali to inflict injuries and has inflicted the wound on fronto parietal, temporal region, maxillary region, fracture of humerus and frontal bone, therefore, all the parts of the body chosen for inflicting the injuries were vital parts and could have caused the death of the injured persons. The injuries were otherwise sufficient to cause death in the ordinary course of nature, as has been stated by (PW-8) Dr. Singh in para-4 of his evidence.

14. Considering the material available on record, the prosecution has fully proved its case and the impugned conviction does not suffer from any infirmity. The appellant has otherwise suffered and served out the entire jail sentence.
15. For the foregoing, the appeal deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)