

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1074 of 2003**

Mansai S/o Renu Ram, aged about 50 years, Caste - Rawat, occupation-Farmer, R/o Village-Hirri, P.S. Farasgaon, District Bastar (C.G.)

---- Appellant

versus

State of Chhattisgarh, Through-P.S. Farasgaon, District Bastar (C.G.)

---- Respondent

For Appellant	:	Shri Suryakant Mishra, Advocate.
For Respondent	:	Shri Luv Sharma, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Judgment on Board

25.11.2017

1. This appeal is directed against impugned judgment of conviction and order of sentence dated 06.08.2003 passed in S.T. No.132 of 2003 by the 1st Additional Sessions Judge, Bastar at Jagdalpur (C.G.).
2. According to the prosecution story, the appellant assaulted the victim with the help of an Axe on the temporal region of his head followed by three other injuries one under the belly, other one near the penis and one in the finger of left hand.
3. At the outset, learned counsel for the appellant would argue that looking to the evidence of victim Chhedilal (PW2) and Kumari Sarita (PW-3), he would not be contesting the appeal on the conviction part, but would confine his argument to the sentence part only and would pray for reducing the sentence of the appellant to the period already undergone by him.

4. Learned counsel for the appellant submits that only one single injury was given on the vital part, i.e., the head and that other three injuries were simple in nature. He further submits that the incident is of the year 2003, and, at present, he is aged about 63 years. Therefore, the sentence awarded to him be reduced to the period already undergone by him.
5. On the other hand, learned State Counsel would submit that the appellant assaulted on the head of the victim by a dangerous weapon, i.e., Axe, resulting in an injury on the right temporal part of the head. He further submits that there were other injuries on the other parts, namely, under the belly and at the bottom part of the penis. Therefore, in these circumstances, the sentence awarded to the appellant is not liable to be altered.
6. The assault was made on the head of the victim by the appellant with an Axe. However, no fracture was found. There was one single injury given on the head. There were other two injuries simple in nature found under the belly and at the bottom of penis. The incident is of the year 2003. At present, the appellant is aged about 63 years.
7. Therefore, taking into consideration the totality of the circumstances, nature of the evidence, extent and gravity of the injuries sustained and the weapon of offence used, I am inclined to reduce the sentence to 3½ years.

8. In the result, the conviction imposed upon the appellant under Section 307 of the Indian Penal Code is affirmed. The sentence of 7 years' rigorous imprisonment awarded to him is reduced to 3½ years' rigorous imprisonment, but the sentence of fine of Rs.500/- is affirmed. He has undergone about 1 year and 6 months. At present, he is on bail. His bail bonds are cancelled as he is again required to undergo to complete the sentence of 3½ years. He shall immediately surrender before the concerned Trial Court or shall be taken into custody forthwith.
9. The appeal is allowed in part to the extent indicated above.

Sd/-
(Manindra Mohan Shrivastava)
JUDGE