

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No.468 of 2001

Dularsingh S/o Nayandas Satnami, aged 45 years, R/o Sakin Gaitra,
P.S.Palari, District Raipur (C.G).

--- Applicant

Versus

State Of Chhattisgarh.

---Non-applicant

For Applicant	:	Ku.Sangeeta Mishra, Advocate.
For State	:	Shri D.R.Minj, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/10/2017

1. Present is the jail appeal on behalf of the applicant Dular Singh who stands convicted for the offence punishable under Section 307 and have been sentenced to undergo R.I. for 5 years and fine of Rs.1,000/- with default stipulation of sentence of 4 months if the fine amount is not deposited.
2. The challenge is to the judgment of conviction dated 31/10/2000 passed by the 1st Additional Sessions Judge, Baloda Bazar in Sessions trial number 246/2000.
3. As per the prosecution case, the present applicant had gone to the complainant Kanhaiyalal who is a quack to whom the present applicant is said to have approached for some treatment.
4. It is said that, there was some dispute between the present applicant with the said Kanhaiyalal and on 22/04/2000, the applicant is said to have with the aid of Sickie (Hasiya) assault the complainant Kanhaiyalal and as a result of the assault, the said complainant received two greivous injuries

measuring 6X1 inch and 5X2 inch on his neck and for which the report later on lodged.

5. The counsel for the applicant submits that, the offence for which the applicant has been convicted is not made out on the ground that, the complainant did not receive any grievous injuries which could have resulted in his death. Further, it is also contended that, the complainant also did not require prolonged treatment which would also reflect that the injuries caused were simple in nature and thus the offence under Section 307 is not made out.

6. The State counsel however opposing the appeal submits that, the fact that the applicant has used a Sickle (Hasiya) for assaulting the complainant Kanhaiyalal and the fact that the assault was made on the vital part of the body on the neck of the complainant and in addition the complainant having received two injuries measuring 6X1 inch and 5X2X0.5 inch is sufficient enough to draw an inference that intention of the applicant was very clear that of eliminating the complainant and which would squarely fall within the ambit of Section 307 of the I.P.C. and thus prayed for the rejection of the appeal.

7. Having considered the rival contentions put forth on either side and on perusal of record, undisputedly, the complainant in the instant case has examined and deposed supporting the case of the prosecution clearly implicating the present applicant for the assault and the injuries received by him.

8. Further, the case of the prosecution stands proved by the evidence of the Guha Ram – PW-7 and one Kawal – PW-10 who had rushed to the spot immediately after the incident. They were the person who had

snatched the knife from the hands of the present applicant and these witnesses had appeared hearing the alarm raised by the complainant.

9. In view of the substantive evidence led by the prosecution, it establishes the conduct of the present applicant and also proves the incident and the injuries.

10. Further, considering the nature of injuries i.e. on the neck of the complainant Kanhaiyalal and the size of the injury, this court has not hesitation in reaching to the conclusion that, the offence which would attract in the given facts would definitely be 307 alone.

11. Thus, this court does not find any illegality on the part of the trial court reaching to the conclusion of holding the applicant guilty of the offence under Section 307 of the I.P.C.

12. Report shows that the applicant herein has already completed his jail sentence and have been released from jail on 05/03/2005. Thus, this court does not find any strong case interfering with the sentence awarded.

13. The appeal thus fails and is accordingly rejected. Since he has already completed his jail sentence no steps further is required to be done.

**Sd/-
(P. Sam Koshy)
Judge**