

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 59 of 2006

(Jail Appeal)

- Dhoto @ Bhoto, S/o Raghunath, aged 40 years, r/o Tetarkuti, PS Bodhghat, Bastar at Jagdalpur, CG

---- Appellant

Versus

- State of Chhattisgarh

----Respondent

For Appellant : None appears

For Respondent/State : Shri Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order on Board

09.12.2017

1) In this Criminal Appeal, the challenge is levied to the judgment of conviction and order of sentence dated 07.01.2006 passed by the 3rd Additional Sessions Judge, Bastar at Jagdalpur (CG), in Sessions Trial No.102 of 2005, whereby and whereunder the appellant has been convicted for the offence punishable under Section 307 of the IPC and sentenced to undergo RI for seven years and to pay fine of Rs.1,000/-; in default of payment of fine amount, to further undergo one year RI.

2) In brief, the prosecution story is that on 13.11.2004 at 7.30 pm, complainant-Rajkumar had gone to the house of the appellant to take back his television, on which the appellant got annoyed, started abusing and assaulting the complainant and caused injury

on his neck by a sharp edged axe. On the very day the complainant intimated the incident to the Police Station Jagdalpur, where Dehati Nalishi was lodged. After completion of the investigation, charge-sheet has been filed against the appellant. The trial Court has examined as many as nine witnesses and on completion of the trial, convicted and sentenced the appellant as above mentioned.

3) As per report dated 13.02.2013 from the Office of the Jail Superintendent, Central Jail, Jagdalpur, the appellant has been released on 18.12.2008 on completion of the jail sentence, getting benefit of remission. The appellant has also deposited the imposed fine amount.

4) Learned counsel for the appellant submits that there is no direct evidence against the appellant and the appellant has been falsely implicated in the case.

5) Learned State counsel supported the impugned judgment of conviction and order of sentence and submitted that the appellant has rightly been convicted and sentenced on the basis of the evidence available on record.

6) As per the alleged report of the medical examination of the appellant (Ex.P/2), Dr Vivek Kumar Joshi (PW-2) had examined the complainant and found one incised wound on the neck of the complainant by a hard and sharp object. As per Query report (Ex.P/3), the said injury was grievous in nature.

7) Rajkumar (PW-3) in para-1 of his evidence says that the appellant had caused injury on his neck by an axe.

8) Santosh (PW-5) in para-1 of his evidence says that he had seen the appellant caused injury on the neck of the complainant by an axe.

9) Looking to the above-mentioned circumstances, this Court finds that the trial Court has not committed any error in convicting and sentencing the appellant as mentioned above.

10) Thus, the appeal being devoid of substance, deserves to be dismissed and it is hereby dismissed.

11) As the appellant has already been released on 18.12.2008 on completion of the jail sentence, getting benefit of remission, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge