

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No.1309 of 2016**

I, Aaditya Thakur, S/o Shri Devi Singh Thakur, aged about 16 years, R/o Santoshi Chowk, Kushalpur, Thana Purani Basti, District Raipur (CG).

----Petitioner**Versus**

1. Lakhan Tivari, aged about 19 years, S/o Sohan Tivari, R/o Santoshi Chowk, J.K. Construction, Gali, Kushalpur, P.S. Purani Basti, Raipur, State of Chhattisgarh.
2. State of Chhattisgarh, through the District Magistrate District Raipur (CG).

----Respondents

For Appellant : Mr. Vikram Singh, Advocate
 For State/resp. No.2 : Ms. Madhunisha Singh, Panel Lawyer

**Hon'ble Shri Pritinker Diwaker, Acting Chief Justice &
 Hon'ble Shri Justice Sanjay K. Agrawal**

Order On Board**Per Pritinker Diwaker, Acting Chief Justice****09/03/2017**

Present petition is directed against the impugned judgment dated 30.08.2016 passed by the Sessions Judge, Raipur in Sessions Trial No. 227/2015 whereby the respondent No.1/accused was prosecuted for the offence under Section 324 of IPC. It is alleged that on 15.07.2015 respondent No.1 caused injury on the neck and face of the petitioner with blade. On the report lodged by the petitioner, offence under Section 307 of IPC was registered against him and later on after filing of charge-sheet, charge was accordingly framed.

(2) Prosecution has examined 11 witnesses in support of its case.

Statement of the respondent No.1/accused was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the charges levelled against him and pleaded false implication in the case.

(3) By the impugned judgment the trial Court has come to the conclusion that respondent No.1/accused is liable to be convicted under Section 324 of IPC instead of 307 IPC. However while imposing the sentence on the respondent No.1/accused the trial Court has reduced the sentence of 130 days for a period which he has already undergone.

(4) Counsel for the petitioner submits that the Court below ought to have convicted the respondent No.1/accused under Section 307 IPC instead of 324 IPC.

(5) Perusal of the material available on record reveals that the doctor (PW-4) has nowhere stated that the injury sustained by the petitioner was grievous in nature.

(6) Thus after hearing counsel for the petitioner and considering the material available on record as well as the elaborate judgment impugned passed by the Court below, and being very much conscious of the existing legal position that in an appeal against acquittal if two views are possible on the basis of the evidence led by the prosecution and the trial Court taking one view favoured the accused, reversion of the findings of acquittal by the appellate Court taking the other possible view into consideration, is not permissible in law, we are of the view that the judgment impugned acquitting the respondent No.1/accused of the offence under Section 307 of the Indian Penal

Code is in accordance with law and there is no illegality or perversity in the same. Accordingly, the leave as sought for by the petitioner for registration of Acquittal appeal against the judgment impugned is hereby refused.

Sd/-

(Pritinker Diwaker)

Ag. Chief Justice

Sd/-

(Sanjay K. Agrawal)

Judge

Laxmi