

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 414 of 2009

- Nanki @ Ramayan Sidar S/o Sukhram Sidar, aged about 20 years, R/o Bokramuda, P.S. Chall, Distt. Raigarh (CG)

---- Appellant

Versus

- State Of Chhattisgarh Through: P.S. Kharsia District- Raigarh (CG)

---- Respondent

For Appellant : Smt. Sofiya Khan, Advocate.

For Respondent/State : Shri Adil Minjah, Panel Lawyer.

Hon'ble Shri Justice Pritinker Diwaker

Judgment On Board

21/06/2017

This appeal arises out of the judgment of conviction and order of sentence dated 6.4.2009 passed by the Sessions Judge, Raigarh in S.T.No.157/03 convicting the accused/appellant under Section 307 of IPC and sentencing him to undergo RI for 7 years.

02. As per the prosecution case, on 26.9.2003 FIR (Ex.P/13) was lodged by injured PW-9 Smt. Baby Sidar, sister-in-law (Bhabhi) of the appellant alleging in it that on that day at about 4 am the appellant assaulted her by a knife as a result of which she sustained injury on her stomach. Based on this FIR, offence under Section 307 of IPC was registered against the appellant. The injured was medically examined vide Ex.P/5 by PW-5 Dr. RK Singh who noticed one stab wound on the stomach of size 3 x 2 inch, intestines had come out, another incised

wound of size 1 x ½ inch on right hand ring finger. According to the doctor these injuries were caused by sharp edged weapon and were sufficient in the ordinary course of nature to cause death. The injured remained hospitalized from 26.9.2003 to 8.10.2003. Initially the appellant remained absconded, however, he was arrested on 26.10.2008. After filing of charge sheet, the trial Court framed charge under Section 307 of IPC against the appellant.

03. So as to hold the accused/appellant guilty, the prosecution examined as many as 10 witnesses. Statement of the accused/appellant was also recorded under Section 313 of Cr.P.C. in which he denied the circumstances appearing against him in the prosecution case, pleaded innocence and false implication.

04. The trial Court after hearing counsel for the respective parties and considering the material available on record, by the impugned judgment convicted and sentenced the accused/appellant as mentioned in para-1 of this judgment.

05. Learned counsel for the appellant submits that the appellant has been falsely implicated, the important witnesses of the prosecution have not supported the prosecution case and even if the entire prosecution case is taken as it is, offence under Section 307 of IPC is not made out.

06. On the other hand, supporting the impugned judgment it has been argued by the State counsel that injured Baby Sidar has duly supported the prosecution case and likewise PW-1 Tarasmati, mother of the injured has also supported the prosecution case. Further,

medical evidence also corroborates the prosecution case. As such, there is no illegality or infirmity in the judgment impugned warranting interference by this Court.

07. Heard counsel for the respective parties and perused the material on record.

08. PW-9 Baby Sidar, injured, while supporting the prosecution case has stated that on the date of incident when she was sleeping, the appellant gave a knife blow on her stomach and upon hearing her cries, her mother, maternal grand-mother and neighbours all woke up, her intestines had come out, there was profuse bleeding from the wound and that she was taken to hospital by the villagers. She has proved the FIR. She states that she remained in hospital for 15-20 days. In cross-examination she remained firm and reiterated as to the manner in which she was assaulted by the appellant.

09. PW-1 Tarasmati, mother of the injured, has stated that the appellant came to her house, slept in the night and early in the morning he caused injuries to her daughter Baby Sidar on her stomach. PW-2 Ku. Lalita Sidar, sister of the injured, saw the appellant running away from the spot. PW-5 Dr. RK Singh medically examined the injured vide Ex.P/5 and noticed one stab wound on the stomach of size 3 x 2 inch, intestines had come out, another incised wound of size 1 x ½ inch on right hand ring finger. According to the doctor these injuries were caused within four hours from the time of examination by sharp edged weapon and were sufficient in the ordinary course of nature to cause death. His query report is Ex.P/8. PW-8 HP Singh, investigating officer, has also supported the prosecution case.

10. Close scrutiny of the evidence makes it clear that on 26.9.2003 it is the accused/appellant who caused stab injury on the stomach of the injured Baby Sidar (PW-9) by knife while she was sleeping in her house along with other family members. PW-1 Tarasmati, mother of the injured, who was present at the spot, has also corroborated the evidence of the injured. Defence has failed to elicit anything from them in the cross-examination to its advantage. This apart, medical evidence also lends due support to the prosecution case according to which the injured suffered one stab wound on her stomach of size 3 x 2 inch and her intestines had come out and that the same was sufficient in the ordinary course of nature to cause death. Thus considering the un rebutted evidence of the injured which is fully corroborated by the other evidence including medical evidence, this Court is of the opinion that the trial Court has not committed any illegality in holding the appellant guilty under Section 307 of IPC.

11. In the result, the appeal fails and is, accordingly, dismissed. The appellant is reported to be in jail, therefore, no further order regarding his surrender etc. is required.

Sd/

(Pritinker Diwaker)
Judge