

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 592 of 2011

(Arising out of judgment/order dated 04.03.2011 in Session Trial
No.36/2010)

- Guddi @ Jamlu, S/o Sonsai, Caste – Maria, Aged about 45 years, Occupation – Farming, R/o Airpund, Dugempara, P.S. Mardum, District- Bastar (C.G.)

---- Petitioner

Versus

- State Of Chhattisgarh, through Police Station- Mardum District Bastar (C.G.)

---- Respondent

For Appellant
For Respondent

Shri R. S. Baghel, Advocate
Shri Rajendra Tripathi, PL

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

09/09/2017

1. The appellant has allegedly attempted to commit murder of his brother Gangdeo at about 19.00 hours on 18.01.2010 causing injuries over his ear and neck.
2. The trial Court has convicted the appellant for having committed offence under Section 307 IPC and has sentenced him to undergo R.I. for 7 years and fine of Rs.1,000/-, in default of payment of fine to undergo additional R.I. for 6 months.
3. Injured Gangdeo and the appellant are amongst four brothers. They have already separated their ancestral land. On a grievance

that the injured has got extra share of land, the appellant was having a grudge. At about 19.00 hours on 18.01.2010, injured Gangdeo was warming himself through a campfire. At this point of time, the accused raised quarrel and abused him by using filthy language. He picked up an axe and caused injuries dangerous to his life by inflicting injuries over his eyes and neck. Gangdeo lodged the FIR (Ex-P/3). PW-1 Dr. Pradeep Baghel medically examined him and submitted his report (Ex-P/1). The injured was referred for better treatment to Maharani Hospital, Jagdalpur, where he was admitted from 19-01-2010 to 28.01.2010. The appellant was arrested and at his instance, axe was recovered vide Ex-P/6. Dr. Pradeep Bhagel also answered the query vide Ex-P/2 that the injuries sustained by the injured can be caused by the axe recovered from the appellant.

4. In course of trial, the prosecution examined PW-1 Dr. Pradeep Bhagel, PW-2 Gangdeo, the injured, PW-3 Rudya Bai, wife of injured Gangdeo, PW-4 Sitaram, uncle of the injured, PW-5 Kedranath, PW-6 Dr. Sandeep Singh of Maharani Hospital, Jagdalpur, PW-7 Prakash Shukla (IO).
5. Injured PW-2 Gangdeo has fully supported the case of prosecution. He has shown his injuries to the Court also and informed the Court that size of his left eye is reduced causing difficulty in vision. He has also stated that on the date of incident, the appellant had consumed liquor and inflicted him without any reason. PW-3 Rudya Bai, wife of injured, was also available in the house at the time of incident. She is an eye witness and has fully supported the prosecution case. PW-4 Sitaram reached the

place of occurrence immediately after the incident upon hearing the alarm raised by PW-3 Rudya Bai. Despite having been declared hostile after he narrates the fact of reaching to the place of incident, when he was cross-examined by the prosecution, he states that upon reaching the house of the appellant, he intervened and separated the appellant from injured Gangdeo. PW-5 Kedarnath is the seizure witness. He has also supported the prosecution case, when he was cross-examined after being declared hostile.

6. PW-1 Dr. Pradeep Bhagel and PW-6 Dr. Sandeep Singh have proved the injury report and the medical treatment papers of the injured when he was admitted in the Maharani Hospital, Jagdalpur.
7. The treatment papers of Maharani Hospital would reveal that during the treatment, the injured was subjected to surgical intervention. The CT scan report (Ex-P/16C) clearly observes that the injured has suffered fracture involving multiple facial bones.
8. Shri Baghel, learned counsel for the appellant would submit that considering the fact that the parties are real brothers and the dispute arose on account of allotment of unequal share in the partition, the appellant should have been treated leniently while imposing the sentence.
9. Having seen the evidence available on record, it appears to this Court that on the basis of statement of the injured and other eye witnesses duly supported and corroborated by the medical evidence, the prosecution has fully proved its case against the

appellant. The injuries sustained by the injured being on vital part of the body, it was definitely dangerous to life in the ordinary course of nature, therefore, the offence under Section 307 IPC is fully made out against the appellant. There was some scope of reducing the sentence but in view of the fact that the appellant has already suffered the entire jail sentence, such reduction is not possible at this stage.

10. For the foregoing, the appeal fails and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

Akhilesh