

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 569 of 2011**

(Arising out of judgment dated 5.1.2011 in ST No.54/2009 of the learned Additional Sessions Judge, FTC, Kondagaon, Bastar)

- Sukh Ram, S/o of Kulehhwar, aged about 45 years, Resident of Village Harwakoda, Police Station Farashgaon, District Bastar (CG)

---- Appellant**Versus**

- State Of Chhattisgarh, through Police Station Farashgaon, District Bastar (CG)

---- Respondent

For Appellant : Shri S.P. Sahu, Advocate.

For Respondent : Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Judgment On Board****09/09/2017**

1. The appellant stands convicted under Section 304 Part-I of the IPC and sentenced to undergo RI for 8 years and to pay a fine of Rs.100/-, in default of payment of fine to further undergo RI for 3 months.
2. The appeal has been preferred from jail and counsel has been appointed through Legal Aid Committee, however, in the absence

of said counsel, I have appointed Shri S.P. Sahu, Advocate, who is in the panel of the lawyers prepared by the High Court Legal Aid Committee to argue the appeal on behalf of the appellant.

3. Shri Sahu requested for hearing the matter after half an hour so as to peruse the record and assist this Court.
4. The appellant has allegedly committed culpable homicide not amounting to murder of his brother Sarwan.
5. Too many facts are not involved in the case. Suffice it would be to mention that on the date of the incident deceased Sarwan had requested (PW-2) Jailal to pluck dates (Chhind) for which Jailal had climbed the date tree at about 8 pm and at the same time the appellant came to the place and out of anger inflicted 2 axe blows on the temporal region and on cheek of deceased Sarwan as a result of which he immediately succumbed to the injuries and died on the spot.
6. All the material witnesses namely, (PW-2) Jailal, (PW-3) Lachhni Bai (mother of the deceased and the appellant) and (PW-4) Asadu Ram have supported the case of the prosecution. Therefore, the prosecution has fully proved its case of homicidal death of the deceased pursuant to the injuries caused by the appellant.

7. Shri Sahu, learned counsel for the appellant would submit that there being no evidence that the appellant intended to commit murder of the deceased, he should have been given benefit of doubt.
8. Learned State Counsel would support the impugned judgment.
9. Eyewitnesses having fully supported the prosecution case, there is not much scope for the appellant to question the impugned judgment on any legally permissible ground.
10. Considering the social strata to which the parties belong and the manner in which the crime has been committed, lesser sentence of about 5-6 years RI should have been imposed. However, as the appellant is in jail since 10.2.2009, he has already undergone the entire jail sentence and there is no scope for reducing the sentence because he has already undergone the entire sentence.
11. In view of the eyewitness account, there is no substance in the appeal, which fails and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)