

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 174 of 2009**

1. Vinod Kumar, S/o Lal Sai, aged about 41 years, R/o Village Harradand, Police Station- Kansabel, District-Jashpur (C.G.)
2. Smt. Manbadhni Bai, W/o Vinod Kumar, aged about 37 years, R/o Village Harradand, Police Station- Kansabel, District-Jashpur (C.G.)

---- Appellants**Versus**

State of Chhattisgarh, through District Magistrate, Jashpur, District-Jashpur (C.G.)

---- Respondent

For Appellants	:	Mrs. Indira Tripathi, Advocate.
For State/respondent	:	Mr. Vinod Kumar Tekam, PL.

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board****24/10/2018**

1. This appeal is preferred under Section 374(2) of the Code of Criminal Procedure, 1973 against judgment dated 13.02.2009 passed by Additional Sessions Judge, Jashpurnagar, District-Jashpur (C.G.) in Session Trial No. 74/2008, wherein the said court convicted both the appellants for commission of offence under Section 324/34 of IPC and Sections 25 & 27 of Indian Arms Act, 1959 (for short "the Act, 1959") and sentenced to R.I. for 1 year and fine of Rs. 500/-, R.I. for 1 year and R.I. for 1 year respectively each with further default stipulations. All the sentences are run concurrently.
2. The appellants were charge-sheeted for causing injuries on the body of Sohanand Sai, Dhanmati Bai & Navin Kumar Sai. As per version of Navin Kumar Sai (PW-4), Sagan Sai (PW-5),

Sohanand Sai (PW-6), Dhanmati (PW-7) and Ratan (PW-8), appellant No. 1- Vinod Kumar was having sword with him and he assaulted Sohanand Sai by sword, while appellant No. 2- Manbadhani was having crowbar with her and she assaulted Dhanmati Bai with crowbar. Version of all the witnesses were subjected to searching cross-examination, but nothing could be elicited in favour of the defence. Version of these witnesses is supported by FIR (Ex.-P/15) which is lodged next date of the incident in which both the appellants are named as culprit and their name is mentioned in FIR.

3. Again, their version is supported by version of Dr. S. Tirkey (PW-1) who examined Sohanand Sai on 23.01.2008 at Community Health Centre, Kansabel and noticed following injuries:-

- (i) I/W 3x0.5 cm. over right thumb muscle deep.
- (ii) I/W 4x1 cm. over left thumb bone deep.
- (iii) I/W 2x0.5 cm. over second finger of left hand.
- (iv) I/W 3x2 cm. over left palm.
- (v) I/W 5.2x2 cm. over elbow.
- (vi) I/W 7x1 cm. over left thigh.
- (vii) I/W 5.1x2 over left side of chest.
- (viii) Abrasion 5.1x1 cm. over both knee.

4. Again, this witness examined Dhanmati Bai and noticed following injuries on her body:-

- (i) Contusion 6x1 cm. over forehead upto bone deep.
- (ii) Abrasion 4.5x2 cm. over right shoulder having black colour.

5. This witness has subjected to cross-examination, but the same is unshaken. There is no other expert opinion contrary to the opinion of this witness, therefore, it is established that the injuries were found on the body of Sohanand Sai and Dhanmati Bai. As per opinion of medical expert, the injuries were caused by hard and sharp object.
6. Causing of injuries by sharp object is offence punishable under Section 324 of IPC and looking to the evidence in its entirety, the trial court convicted the appellants for commission of offence under Section 324/34 of IPC and this Court has no reason to record contrary finding.
7. For commission of offence under Sections 25 & 27 of the Act, 1959, it has to be proved that the appellants have violated the notification issued under Section 4 of the Act, 1959. Weapons mentioned in the notification should tally with weapon seized in the case, but no such notification was proved before the trial court and measurement of weapon which is notified is also not proved. Therefore, contravention of notification issued under Section 4 of the Act, 1959 is not established. Charges under Sections 25 & 27 of the Act, 1959 is not proved. The appellants are acquitted of the said charges.
8. This Court has reassessed the entire evidence and after reassessment, this Court has no reason to record contrary finding. Accordingly, finding of the trial court regarding commission of offence by both the appellants under Section 324/34 of IPC and their conviction are hereby affirmed.

Heard on the point of sentence.

9. The trial court has awarded jail sentence for 1 year to both the appellants, which is already suffered by appellant No. 1- Vinod Kumar. Appellant No. 2- Manbadhni has suffered jail sentence of 160 days. Her sentence part is reduced to the period already undergone by her. The fine amount shall remain intact.
10. With these modifications, the appeal is partly allowed.

Sd/-
(Ram Prasanna Sharma)
Judge