

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 277 of 2010

(Arising out of judgment/order dated 03.12.2009 in S.T. No. 31/2009 of the learned Sessions Judge, Bastar at Jagdalpur)

- Baijnath Bhatra S/o Sukmat Bhatra, aged about 35 years, R/o village Markel, Bagamuda Awas Plot Para, Police Station – Nagarnar, District – Bastar (C.G.)

---- Appellant

Versus

- State Of Chhattisgarh

---- Respondent

For Appellant	:	None.
For State	:	Shri Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

JUDGMENT ON BOARD

20.01.2018

1. This is an office reference.
2. In this Criminal Appeal the challenge is levied to the judgment of conviction and order of sentence passed by the Sessions Judge Bastar at Jagdalpur on 03.12.2009 in S.T. No. 31/2009 whereby and whereunder the appellant was convicted for the offence punishable under Section 307 of the Indian Penal Code (hereafter called as 'IPC') and sentenced to undergo rigorous imprisonment of 5 years and fine of Rs.500/-, in default of payment of fine, additional S.I. for 1 month.
3. This is admitted by the appellant that P.W.1 Prahlad, P.W.2 Somari, P.W.3 Motiram and P.W.4 Ghashiram know him. P.W.2

Somari, P.W.3 Motiram and P.W.4 Ghashiram also know the complainant P.W.1 Prahlad. P.W.1 Prahlad is the husband of P.W.2 Somari. He is live-in-son-in-law of P.W.1 Prahlad and P.W.2 Somari.

4. In brief the prosecution story is that the complainant Prahlad is the resident of Bagaguda Para of village Marmel. There was previous enmity between the complainant and the appellant on account of damaging of the maize crop of the appellant by the cocks and hens of the complainant. On 08.01.2009 near about 16:45 hrs the appellant told the complainant that his cocks and hens had damaged his maize crop, thus he will kill him. Thereafter, the appellant caused injury on the abdomen of the complainant by knife resulting in his intestine had come out. On very day, the complainant given information to the police station Nagarnar where the Dehati Nalishi was registered. After completion of the investigation, the charge-sheet was filed against the appellant and after conclusion of the trial, the Trial Court convicted and sentenced the appellant as aforesaid.

5. A report dated 13.11.2017 from the office of the Superintendent, Central Jail, Jagdalpur, District - Bastar has been received. As per the report, the appellant has been released on completion of sentence on 20.07.2012 after giving benefit of remission.

6. As per the alleged M.L.C report Ex.P/11A the complainant was examined by P.W.7 Dr. S.S. Tekam and found two incised wounds on the body of the complainant. Out of 2, 1 was of 1.5"x5" on the left side of the abdomen. Both the injuries were caused by hard and sharp object.

7. There is no such evidence on record on the strength of the which it could be said that Ex.P/11A is not believable. Thus, this Court believes on Ex. P/11A.

8. The complainant P.W.1 Prahlad and P.W. 2 Somari say in para-1 of their statements given on oath that the appellant had caused injury on the abdomen of the complainant by the knife and due to which his intestine came out.

9. P.W.3 Motiram, P.W. 4 Ghasiram say in para-1 of their statements given on oath that they had seen the injury on the abdomen of the complainant, the internal part of the abdomen was come out.

10. In the alleged Dehati Nalishi Ex.P/6, alleged incident has been described with the role of the appellant. There is no such evidence on record on the strength of which it could be said that Ex.P/6 is not natural.

11. There is no such evidence on record on the strength of which it could be said that the said statements of P.W.1 Prahlad, P.W.2 Somari, P.W.3 Motiram and P.W.4 Ghashiram are not believable. Thus, this Court believes on them.

12. After appreciation of the evidence discussed herebefore this Court finds that the prosecution has succeeded to prove the charge punishable under Section 307 IPC against the appellant. There is no such evidence on the strength of which it could be said that the sentence awarded to the appellant is excessive.

13. After appreciation of the evidence discussed herebefore this Court finds that the appeal is devoid of merits.

14. Hence, the appeal deserves to be and is hereby dismissed.

15. As the appellant has already been set at liberty after completion of sentence, no further order is required.

Sd/-
(Sharad Kumar Gupta)
JUDGE