

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 698 of 2006

- Ram Sai S/o Ramfal Kanwar, aged about 46 years, Occupation- Agriculturist, R/o Village-Maheshpur, P.S.- Jai Nagar, District-Surguja, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through Police Station-Jai Nagar, District- Surguja, Chhattisgarh

---- Respondent

For the Appellant : Mr. Manoj Mishra, Advocate.

For the State/Respondent : Mr. V.B. Singh, PL.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Judgment on Board

06/12/2018

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 25.8.2006 passed by the learned 2nd Additional Sessions Judge (FTC), Surajpur, District-Surguja, Chhattisgarh in Sessions Trial No.364/2005 convicting the accused/ appellant under Section 304 (1) of the Indian Penal Code (for short 'the IPC') and sentencing him to undergo RI for 10 years with fine of Rs.100/- with usual default clause.
2. The prosecution case, in brief, is this that on 11.8.2005 at about 3.30 pm the appellant assaulted his brother Bhairav with club and caused

his death. The appellant himself made a phone call to police-station giving information about the offence and based on which FIR was lodged. Autopsy was conducted on the dead body of the deceased. Statement of witnesses were recorded and after completion of investigation, charge-sheet has been filed before the concerned Court.

3. The appellant was charged with the offence under Section 302 of IPC to which he denied and prayed for trial. Statement of appellant under Section 313 of CrPC has been recorded in which he denied all the incriminating evidence available against him, pleaded innocence and false implication. No witness was examined in defence.
4. After completion of trial, impugned judgment has been passed in which the appellant stands convicted and sentenced in the manner as described above.
5. It is submitted by counsel for appellant that conviction of the appellant is not sustainable in law because the prosecution has failed to prove the charge of murder against the appellant beyond reasonable doubt. Hence, the benefit of doubt should go to the appellant. It is also submitted that appellant is in jail since the date of his arrest on 13.8.2005, hence, he must have completed the sentence of imprisonment imposed upon him.
6. Learned counsel for the State has opposed the grounds raised in this appeal as also the arguments advanced by the counsel for the appellant. It is submitted that the prosecution has proved its case

beyond reasonable doubt, hence, there is no infirmity or illegality in the impugned judgment convicting and sentencing the appellant as aforementioned. Hence, the appeal is liable to be dismissed.

7. I have heard learned counsel for the parties and perused the record of the trial Court including the impugned judgment.
8. The question that requires determination in this appeal is as to whether on the basis of evidence available on record the prosecution has been able to establish guilt of accused/appellant beyond reasonable doubt ?
9. After perusing the entire evidence present on record including the statements of prosecution witnesses and closely scrutinizing the same, I am of this opinion that the prosecution has been able to prove the involvement of the appellant in the crime in question beyond doubt. Findings of the trial Court convicting and sentencing the appellant under Section 304 Part-1 of IPC is not perverse and I am in agreement with the findings recorded by the trial Court.
10. It is informed by learned counsel for the appellant that the appellant is still in jail. If the appellant has already served out the sentence imposed by the trial Court and if he is not wanted in any other case, he shall be released forthwith.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

