

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 573 of 2004

Order reserved on 09.10.2018

Order pronounced on 14.11.2018

Meer Khurshid Ali @ Bablu, S/o Meer Masum Ali, aged about 25 years, R/o Village Gharghoda, Tehsil Gharghoda, District Raigarh, Chhattisgarh.

---- Applicant

Versus

The State of Chhattisgarh, Through the District Magistrate Raigarh, Chhattisgarh.

---- Respondent

For Applicant : None

For State/ Respondent : Ms. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V Order

The accused / applicant has preferred this revision petition against the judgment of conviction and order of sentence dated 29.10.2004 passed by Additional Sessions Judge, Raigarh, (CG) in Criminal Appeal No. 57/2004 affirming the judgment dated 27.02.2004 passed by Judicial Magistrate First Class Gharghoda in Criminal Case No. 432/2002 convicting the accused/applicant u/s 324 IPC and sentencing him to undergo RI for one year, and further convicting him under Section 25 (1-B) (b) of Arms Act and sentencing him to undergo RI for one year and pay fine of Rs. 200/-.

2. Facts of the case, in brief, are that on 04.07.2002 the accused/applicant asked the complainant Ram Awtar Sharma (PW-4) to vacate his shop and when the complainant did not agree to that for the reason that the shop was taken on rent by his father and that the rent was being paid regularly, therefore, he would not vacate the same. On this, the accused/applicant got furious and threatened the complainant of being done away with by inflicting sword injury. When the complainant rushed inside the

house, the accused/applicant followed him carrying sword in his hand and hurling filthy abuses, caused blow with sword as a result of which his left elbow got injured coupled with bleeding. On the basis of FIR Ex. P-3, offences under section 294, 506-B and 324 IPC were registered against the accused/applicant. On *Challan* being laid under the same sections, with an additive under Section 25 (1-B) (b) Arms Act, the Court below also framed the charge accordingly.

3. On the basis of material on record learned Magistrate acquitted the accused/applicant of the charges under Section 294 & 506-B but convicted him under Section 324 IPC and 25 (1-B) (b) of Arms Act, which on being appealed, has been affirmed by the Lower Appellate Court.

4. The applicant remained unrepresented. State counsel however, supports the findings recorded by the Court below.

5. Heard counsel for the parties and perused the material on records.

6. Complaint Ram Avtar Sharma (PW-4) has stated that on the date of incident the accused/applicant had assaulted him with the help of sword causing bleeding injuries on his left hand. All this happened in furtherance of his refusal to the say of the accused/applicant to vacate the shop being taken on rent by him. Ritesh Kumar Sharma (PW-5) has also supported the case of the prosecution stating that when the complainant did not agree to the words of the applicant regarding vacation of shop, the applicant took out the sword and tried to cause injury on his head, but luckily by warding off the attack, the blow fell on his left hand causing injury thereon. The Doctor (PW-1) who medically examined the complainant and gave his report Ex. P-1 has stated that he noticed a cut wound on the forearm in the size 3x 1/4 into bone deep and the blood was also oozing. He also noticed an abrasion on his index finger, which was reddish in colour. This witness has categorically stated that the injuries suffered by the victim could have been caused by hard and sharp edged object. As per the evidence of seizure witness Ramesh Kumar Choubey (PW-2) a sword was seized from the applicant under Ex. P-2.

7. Having gone through the material on record in particular the evidence of PW-1, PW-4 & PW-5 clearly indicating the involvement

the applicant in the crime in question where he caused injuries to the victim with a hard and sharp edged weapon, this Court is of the considered opinion that the prosecution has proved its case as required under the law. So also the Court below too has stuck to the material on record while convicting the accused/applicant as described above. No infirmity is lurking in the conviction part of the judgment impugned and it is maintained as such.

8. As regards sentence, the record including the report of Jail Superintendent Central Jail Bailaspur dated 18.09.2018 reveals that after completing the sentence on getting remission the applicant has already been set free and therefore, no further order in this respect is required.

9. Resultantly, the revision petition is hereby dismissed.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan