

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 468 of 2010**

Rambilas @ Deriha S/o Nanka Ram Gond, aged about 67 years,
Caste Gond Occupation Agriculturist R/o Vill. Bharatpur, PS
Lakhanpur, Surguja (CG)

---- Appellant

Versus

State Of Chhattisgarh through Station House Officer, Police Station
Lakhanpur, Distt. Surguja (CG)

---- Respondent

For appellant	None.
For Respondent/State	Mr. Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****14-7-2018**

1. In this Criminal Appeal, the challenge is levied to the judgment of conviction and order of sentence dated 12-4-2010 passed by the Sessions Judge, Surguja (Ambikapur) in Sessions Trial No.88/2009, whereby and whereunder the appellant has been convicted for the offence punishable under Section 307 of the IPC and sentenced to undergo RI for 4 years and to pay fine of Rs.1,000/-; in default of payment of fine amount, to further undergo 3 months RI.
2. In brief, prosecution story is that complainant Smt. Rampati Bai aged about 50 years is resident of village Bharatpur. On 29-12-2008 at about 8 pm she was sitting in courtyard near fire. Ku. Sunita was also present there. The accused came there holding a lath and an axe like weapon. He caused injuries on left side of her head by such weapon with intent to kill her. There was previous enmity between them. On the very day, at 21.30 hours, the complainant lodged FIR Ex. P-10 in police station Lakhanpur. After completion of the investigation, charge-sheet was filed against the appellant. The trial Court framed charge against the appellant for offence punishable under Section 307 of the IPC. The appellant abjured the charge and faced trial. Prosecution examined as many as 7 witnesses and the appellant examined

one defence witness in his defence.

3. On completion of the trial, the trial Court convicted and sentenced the appellant as aforesaid. Being aggrieved, the appellant has preferred this appeal.
4. Learned counsel for the appellant submits that there is no direct evidence against the appellant and the appellant has been falsely implicated in the case.
5. Learned State counsel supported the impugned judgment of conviction and order of sentence and submitted that the appellant has rightly been convicted and sentenced on the basis of the evidence available on record.
6. As per medical examination report Ex. P-8-A, P.W. 3 Dr. P.S. Marko had examined the complainant on 29-12-2008 and found 5 incised wounds on her body, out of them, 3 injuries were on the left side of forehead, one was on left temporal region. The injuries were caused by sharp object.
7. There is no such evidence on record on the strength of which it could be said that Ex. P-8-A is not believable. Thus, this Court believes on Ex. P-8-A.
8. As per the alleged report Ex. P-10-A P.W. 3 Dr. P.S. Marko had examined one axe marked as Article 'C' on 9-1-2009 and opined that the injuries found on the body of the complainant can be caused by the axe.
9. There is no such evidence on record on the strength of which it could be said that Ex. P-10-A is not believable. Thus, this Court believes on Ex. P-10-A.
10. P.W. 5 Smt. Rampati Bai and P.W. 6 Sunita say in para 2 of their statements given on oath that the appellant had caused two blows by the axe on the head of the complainant.
11. D.W. 1 Dalsai says in para 2 of his statement given on oath that Jaimangal and Somar had told him that the appellant has been falsely implicated.
12. There is no such evidence on record on the strength of which it could be said that the aforesaid statements of P.W. 5 Smt. Rampati and P.W. 6 Sunita are not believable, not natural and not simple.
13. The appellant has not examined Jaimangal and Somar who had

told P.W. 1 Dalsai that the appellant had been falsely implicated.

14. As per alleged memorandum Ex. P-2 the appellant intimated P.W. 7 R.J. Kerketta, Asstt. Sub Inspector that he had hidden one axe in the corner of courtyard of his house and get it recovered.
15. As per alleged seizure Ex. P-3, P.W. 7 R.J. Kerketta had seized one axe on production by the appellant.
16. There is no such evidence on record on the strength of which it could be said that Ex. P-2 and Ex. P-3 are not believable. Thus, this Court believes on Ex. P-2 and Ex. P-3.
17. As per RFSL report Ex. P-14, blood was found in Article 'C' axe.
18. There is no such evidence on record on the strength of which it could be said that Ex. P-14 is not believable. Thus, this Court believes on Ex. P-14.
19. Looking to the aforesaid facts and circumstances of the case, this Court finds that the accused/ appellant does not get any help from the aforesaid statement of D.W. 1 Dalsai.
20. Looking to the above-mentioned circumstances, this Court finds that the trial Court has not committed any error in convicting and sentencing the appellant as mentioned above.
21. Thus, the appeal being devoid of substance, deserves to be and is hereby dismissed.
22. As per the communication dated 11-10-2017 received from the office of Jail Superintendent, Central Jail Ambikapur, the appellant is reported to be on bail. His bonds are cancelled. He be taken into custody forthwith for undergoing the remaining part of sentence, if any.

Sd/-

(Sharad Kumar Gupta)

Judge