

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 3333 of 1999**

Arun Verma, aged about 22 years, S/o Domar Singh Verma, Resident of Village Charoda, P.S. Dharsiwa, District, Raipur (M.P.) (Now C.G.).

----Appellant

Versus

The State of Chhattisgarh, through- P.S. Dharsiwa District, Raipur (M.P.) (C.G.).

---- Respondent

For Appellant	:	None
For Respondent	:	Mr. Sameer Behar, PL

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board**

19/01/2018

1. This appeal has been preferred under Section 374 of the Code of Criminal Procedure against the judgment dated 12/11/1999 passed in ST No. 141/1997 by the 1st Additional Sessions Judge, Raipur convicting the accused/appellant under Section 323 of the Indian Penal Code and sentenced to undergo SI for 3 months.
2. Case of the prosecution, in brief, is that on 10/01/1997 at about 09-10 p.m., Rupesh along with his friends were standing at Goverdhan Hotel. After some time, Ramkant and Rupesh left for their house, when they had gone 20-25 metres away, co-accused, Dinesh asked Rupesh to stop and inquired as to why he had abused him and started fighting. Shivnarayan

tried to stop them. Dinesh took out knife and stabbed Rupesh on chest. It is further alleged that present accused- Arun Kumar and other co-accused/ acquitted accused- Rajkumar and Israil had also assaulted Rupesh by hand and fists. Rupesh was taken to Dharshiva hospital. From there, he was referred to Medical College Hospital, Raipur. Report was lodged by Shinarayan vide Ex.P-2. Statement of witnesses under Section 161 of Cr.P.C. have been recorded. After investigation, charge-sheet has been submitted and charges under Section 307 of IPC has been framed. After trial, the learned Trial Court has acquitted the co-accused Rajkumar and Israil from the charge under Section 307 of IPC and convicted this accused/appellant under Section 323 of IPC and sentenced him as mentioned in paragraph 1 of this judgment.

3. Another co-accused, Dinesh Kumar has been convicted under Section 307 of IPC. A separate appeal i.e. CRA No. 3122/1999 has been preferred by him, which is pending in this Court. The appellant, in the above mentioned appeal, is absconding.
4. A certificate of incarceration sent by the Jail Superintendent, Riapur shows that this appellant/accused- Arun Verma has undergone his jail sentence and has already been released on 12/11/1999.
5. Since, no one appears on behalf of the accused/appellant, I decide this appeal on its merit.
6. I have heard learned counsel for the State and perused the impugned judgment.
7. Shivnarayan (PW2) has stated that at the time of incident, this

accused/appellant had assaulted Rupesh by hands. Ramakant (PW5) has also stated that he had also seen the incident and the accused/appellant had assaulted the complainant with the hands.

8. Complainant/Injured, Rupesh (PW7) has stated that at the time of incident, the accused/appellant along with Dinesh abused him and thereafter they along with acquitted accused persons namely Rajkumar and Israil assaulted him with hands. He has categorically stated that he was assaulted by Dinesh with knife.
9. The incident was also witnessed by Mukesh Kumar Verma (PW9), who has also supported the above statement. All above witnesses were remained firm during their cross examination.
10. From the above, it is clear that at the time of occurrence, complainant-Rupesh has been assaulted by this accused/appellant with hands. The Trial Court has rightly convicted the accused/applicant under Section 323 of the IPC.
11. Considering the material available on record, I find no merit in this appeal, therefore, the appeal deserves to be and is hereby dismissed.

Sd/-

(Arvind Singh Chandel)
Judge