

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 25-10-2018****Delivered on 27-10-2018****CRIMINAL APPEAL No. 609/2001**

(Arising out judgment of conviction and order of sentence dated 26th June, 2001 passed by 3rd Additional Sessions Judge, Sarguja at Ambikapur, CG in S.T. No. 218/2000)

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Sinnuram son of Mahang Nagesiya, aged about 42 years, r/o. Village Kundikhurd, P.S. Rajpur, Distt. Sarguja, CG

----Appellant**-Versus-**

State of Chhattisgarh through P.S. Rajpur, Distt. Sarguja, CG

----Respondent

For appellant : Shri Ajay Kumar Pandey, Adv.

For State : Shri Ramakant Pandey, PL

Hon'ble Shri Sharad Kumar Gupta, Judge**CAV JUDGMENT**

1. In this criminal appeal the challenge levied is to the judgment of conviction and order of sentence dated 26th June, 2001 passed by 3rd Additional Sessions Judge, Sarguja at Ambikapur, CG in S.T. No. 218/2000 whereby and whereunder he convicted the appellant for the offence punishable u/s 325 of the Indian Penal Code (in brevity 'IPC') and sentenced him to undergo RI for 3 years.

2. In brief, case of the prosecution is that appellant is the husband of the deceased – wife Purni Bai. On 12-6-2000 they had gone to celebrate Ganga Dashehra at village Banga Tikra along with some other persons. During returning back appellant beat her on account of slow walking, as a result of injuries she died on 13-6-2000. During the investigation it was found that there are number of contusions on head of the deceased, her right temporal part was fractured, her death was homicidal. After

completion of the investigation a charge sheet was filed against him. Trial Court framed the charge against him under Section 302, IPC. After conclusion of the trial, Trial Court acquitted him of the charge punishable under Section 302, IPC, however convicted and sentenced him as aforesaid.

3. Shri Ajay Kumar Pandey, counsel for the appellant at the outset urged that he is not challenging the conviction of the appellant rather he is challenging only the aforesaid period of sentence of RI of 3 years. He further submitted that the appellant has already undergone about more than one year thus the period of RI for 3 years may be reduced to the period of undergone.

4. Shri Ramakant Pandey, Panel Lawyer argued that aforesaid RI is just and proper and does not call for any interference.

5. At the time of the incident, no minimum imprisonment was provided for the offence punishable under Section 325, IPC. Looking to the facts and circumstances of the case, this Court is of the opinion that the sentence of RI for 3 years is excessive and cause of justice would be sub-served if it is reduced from 3 years RI to 2 years RI and fine sentenced may be imposed upon him.
6. Accordingly, the appeal is partly allowed. Appellant is sentenced to undergo RI for 2 years, and to pay a fine of Rs. 7,000/- (Rupees seven thousands only), in default of payment of fine to further undergo additional RI for 6 months.
7. Since the appellant is in jail no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge