

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.774 of 2001

Amritram, S/o Mahangram, aged 24 years, R/o Kansapara, P.S. Jainagar,
District Surguja, Chhattisgarh

---- Appellant

versus

The State of Chhattisgarh

--- Respondent

For Appellant : Shri A.N. Pandey, Advocate
For Respondent/State : Shri Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

13.7.2018

1. This appeal is directed against the judgment dated 20.8.2001 passed by the 6th Additional Sessions Judge (F.T.C.), Surajpur in Sessions Trial No.326 of 1998 convicting and sentencing the Appellant as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 325 of the Indian Penal Code	Rigorous Imprisonment for 5 years and fine of Rs.2,500/- with default stipulation

2. The prosecution case, in brief, is that on 26.6.1998 at about 4:30 p.m., deceased Jaglal was present at the house of Jaturam (PW5). Wife of Jaturam and Shriram (PW10), brother-in-law (*Sadhu*) of deceased Jaglal were also present there. On arrival of the Appellant thereto, Jaturam (PW5) offered him to have drink to which he denied. On this, deceased Jaglal asked the Appellant about the place to which he belongs. This question of the deceased infuriated the Appellant and he began to beat the

deceased with fists and kicks. Thereafter, they separated and the deceased returned his house. On the next day, condition of the deceased deteriorated and hence a doctor was called. However, when the doctor reached, it was found by him that the deceased had already succumbed to the injuries. The matter was reported to the police. Morgue Intimation (Ex.P1) was registered. First Information Report (Ex.P9) was registered against the Appellant for an offence punishable under Section 302 of the Indian Penal Code. On completion of the investigation, a charge-sheet was filed against him for the offence punishable under Section 302 of the Indian Penal Code. A charge was framed against him under Section 302 of the Indian Penal Code.

3. To rope in the Appellant, the prosecution examined as many as 12 witnesses. Statement of the Appellant was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the guilt and pleaded innocence. No witness has been examined in his defence.
4. After trial, the Trial Court acquitted the Appellant of the charge framed under Section 302 of the Indian Penal Code, but convicted him under Section 325 of the Indian Penal Code and sentenced as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the incident is of the year 1998, the Appellant is facing the *lis* for the last 20 years, he has no known criminal antecedent, during trial he remained in

custody for about 3½ months and now he is still in jail since 17.5.2018. Therefore, Learned Counsel prays that the Appellant may be sentenced with the period already undergone by him.

6. On the other hand, Learned Counsel appearing for the State supported the impugned judgment of conviction and sentence.
7. I have heard Learned Counsel appearing for the parties and perused the record with due care.
8. Taking into consideration the facts and circumstances of the case, the arguments advanced and that the incident is of the year 1998, the Appellant is facing the *lis* for the last 20 years, he has no known criminal antecedent, during trial he remained in custody for about 3½ months and now he is still in jail since 17.5.2018, I am of the view that the interest of justice would be served if, while affirming the conviction imposed upon the Appellant, he is sentenced with the period already undergone by him and the sentence of fine is affirmed. Ordered accordingly.
9. Consequently, the appeal is allowed in part to the extent indicated above.
10. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
JUDGE