

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.353 of 2008**

Denesh Kumar Dhruv, S/o Man Singh Dhruv, aged about 26 years,
 Profession Coolie, R/o Taras Gaon, P.S. Charama, District Kanker
 (CG).

----Appellant

Versus

State of Chhattisgarh through Police Station Arjuni, District Dhamtari.

----Respondent

For Appellant : None present.
 For State : Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

11.08.2018

1. In this Criminal Appeal, the challenge is levied to the judgment of conviction and order of sentence dated 20.12.2007 passed by the Sessions Judge, Dhamtari in Sessions Trial No. 64/2006, whereby and whereunder the appellant has been convicted for the offence punishable under Section 307 of the Indian Penal Code (for short 'IPC') and sentenced to undergo RI for 5 years.
2. In brief, the prosecution story is that earlier a quarrel was happened between the complainant Jarina Bano and the present appellant on account of restriction to come and see the T.V. in her house to the appellant. On 20.08.2006 at about 11.00 am at village Shankar Dah near the road, when complainant Jarina Bano was going to sell the bangles, appellant reached

there and caused injury to her abdomen by knife and threatened her to kill. On very day, at about 13:00 pm in Government Hospital, Dhamtari. *Dehati Nalishy* was registered against the appellant. After completion of the investigation, charge-sheet was filed against the appellant under Section 25 of the Arms Act and Sections 307, 506(B) of IPC. The trial Court framed the charge against the appellant under Sections 506(B), 307 of IPC and Section 25(1)(B)(b) of the Arms Act. The appellant abjured the charges and faced the trial.

3. In order to bring home the charge, the prosecution examined as many as 11 witnesses. However, the appellant did not examine any witness in his defence.
4. After conclusion of the trial, the trial Court acquitted the appellant from the charges punishable under Section 506(B) of IPC and Section 25(1)(B)(b) of Arms Act and convicted and sentenced the appellant as aforesaid. Being aggrieved, the appellant has preferred this criminal appeal.
5. As per the MLC report vide Ex. P-1, Dr. A.K. Tonder (P.W.1) had examined the complainant Jarina Bano on 20.08.2006 and found one incised wound in upper abdomen, size 1½ cm x ¼ cm depth. He opined that the injury was grievous in nature and may have been caused by some sharp pointed object.
6. There is no such evidence on record on the strength of which it could be said that Ex. P-1 is not believable. Thus, this Court

believes on Ex.P-1.

7. As per query report vide Ex.P-5, Dr. A.K. Tonder (P.W.-1) had furnished the information that if the patient does not receive immediate treatment, the patient may be died.
8. There is no such evidence on record on the strength of which it could be said that Ex. P-5 is not believable. Thus, this Court believes on Ex. P-5.
9. As per the photocopy of Bed Head Ticket vide Ex. P-15(c), Dr. Veena Chhaterjee (P.W.-9) found one injury on the abdomen of the complainant Jarina Bano, which was stitched.
10. There is no evidence on record on the strength of which it could be said that Ex. P-15(c) is not believable. Thus, this Court believes on Ex.P-15(c).
11. As per the injury report vide Ex. P-16, Dr. Veena Chhatterjee (P.W.-9) had conducted emergency operation of the complainant Jarina Bano. As per this witness, the injury was grievous in nature. If immediate medical help was not provided to the complainant, the death of the complainant Jarina Bano was probable.
12. There is no such evidence on record on the strength of which it could be said that Ex. P-16 is not believable. Thus, this Court believes on Ex.P-16.
13. Jarina Bano (P.W.-5) says in para-2 that the appellant had

caused injury on her abdomen by knife.

14. There is no such evidence on record on the strength of which it could be said that the aforesaid statement of Jarina Bano is not in simple, not natural, not normal.

15. *Dehati Nalishy* vide Exhibit P-8 has been registered on the very day without delay. In Ex. P-8 the entire incident has been narrated with the specific role of the appellant.

16. There is no such evidence on record on the strength of which it could be said that Ex. P-8 has been lodged as afterthought.

17. Looking to the above mentioned facts and circumstances, this Court believes on para -2 of Jarino Bano (P.W.-5).

18. After the appreciation of the evidence discussed here before, this Court finds that trial Court has not committed any illegality in convicting and sentencing the appellant/accused as aforesaid.

19. In view of above discussion, this Court finds that the appeal being devoid of merit deserves to be and is hereby dismissed.

20. As per the report of office of the Superintendent, Central Jail Raipur, the appellant has already been released on 20.02.2010 by extending remission to him. Therefore, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge

L/-