

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 160 of 2009

Mazrul Haq S/o. Safiq Mohammad, Aged about 25 years, Village
Bhawrahi, Chowki Basdehi, P.S. Surajpur District Surguja (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Chowki Basehi, P.S. Surajpur
District Surguja (C.G.)

---- Respondent

For Applicant : Mr. Shaktiraj Sinha, Advocate.
For Respondent : Ms. M. Asha, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

03.12.2018

By the judgment under challenge passed on 30.12.2008 by the Additional Sessions Judge Surajpur District Sarguja in Sessions Trial No. 458 of 2007, the accused/applicant has been convicted under Section 323 IPC and sentenced to undergo simple imprisonment of 2 months 28 days. Since, the charge was framed against the accused/applicant, the case was committed to the Sessions Judge who, in turn, transferred the same to the Additional Sessions Judge who has passed the impugned judgment by convicting the accused/applicant under Section 323 in place of 307 IPC.

2. Facts of the case, in short, are that on 18.10.2007 a written report was made by Musa Raza (PW-1) to the effect that the accused/applicant herein ran the pick-up No. C.G-15-A/3689 over his brother Khurshid with an intention to eliminate him, as a result of which he fell down and became unconscious. On the basis of the written report (Ex.P-1), FIR (Ex P-2) was registered under Section 307 IPC. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. Having considered the material on record the Court below has convicted the accused/applicant under Section 323 IPC though the charge was framed under Section 307 IPC. Hence, this revision.

4. Counsel for the applicant submits that the Court below has committed an error in convicting and sentencing the accused/applicant as mentioned above though the evidence led by the prosecution was lacking and therefore, the same may be set aside.

5. State counsel however, supports the findings recorded by the Court below.

6. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. From the statement of complainant (PW-1), injured (PW-2), Dr. R.S. Singh (PW-4) and Dr. V.K. Shrivastava (PW-10), it is

apparent that the accused/applicant has caused injuries to the victim, though simple in nature. Thus, his conviction is hereby maintained.

8. As regards sentence, the accused/applicant appears to have completed the entire sentence imposed upon him by the Court below and therefore, this point too does not require any deliberation. Being so, the revision is hereby dismissed.

9. However, looking to the peculiarity of the fact involved, this Court feels it necessary to observe that the conviction of the applicant shall not affect his service carrier.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Jyotishi