

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 1085 of 2012**

Panna Lal Pando, S/o. Bodra, Pando, Aged about 30 years, R/o. Village Rajouli, Pandopara, Police Station Sonhat, District Korea Chhattisgarh

---- Appellant**Versus**

State Of Chhattisgarh, Through Police of Police Station Sonhat, District Korea, Chhattisgarh

----Respondent

For Appellant	:	Mr. Akhil Agrawal, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****21/04/2018**

1. The present appellant stands convicted for the offence under Section 307 of Indian Penal Code vide judgment dated 06.10.2012, passed by the Sessions Judge, Korea (Baikunthpur), Chhattisgarh, in Sessions Trial No. 95/2009. The present appellant was sentenced to undergo rigorous imprisonment for 10 years with fine of Rs.1000/- with default stipulation.
2. The case of the prosecution against the present appellant is that on 28.01.2007, at around 6:15 in the evening, the complainant Budhram (PW/3) was sitting in front of his house cleaning the lamp, when the present appellant is said to have shot an arrow towards the complainant who somehow escaped from the assault and immediately the present appellant is said to have tried to fix another arrow to be shot towards the complainant. When the complainant saw this, he is said to have ran into his house and took shelter and raised an alarm. That is when the persons in the neighbourhood

came out and saw the present appellant running away from the scene of occurrence with the bow and arrow in his hand.

3. The matter was immediately lodged to the Police Station Sonhat and the police registered a Crime No.8/2007 for the offence under Section 307 of Indian Penal Code against the present appellant.
4. The matter was put to trial before the Sessions Court, Korea, whereas the prosecution examined as many as 8 witnesses and there was no witness examined on behalf of the defense. The material witnesses on behalf of the prosecution were examined as PW/3-Budhram, the complainant, PW/5-Somari Bai and also Shivnandan, Manoj Kumar and Ramkripal as PW/4, PW/6 and PW/7 respectively.
5. The counsel for the appellant submits that the present appellant has been falsely implicated in the case and as there was no strong material available against the present appellant, so as to implicate him for the offence under Section 307 of the Indian Penal Code. It is the contention of the counsel for the appellant that the present appellant has been falsely implicated so as to make the other cases, which were also leveled against the present appellant on the same date stronger. He further submits that though the present appellant had been prosecuted for the offence under Section 307 of the Indian Penal Code, but it is a case where the injured PW/3 did not receive any injury whatsoever with which it could be said that the offence under Section 307 has been made out. Likewise, from the perusal of record also it would reveal that the complainant did not receive any injury for the reason that there was no M.L.C. conducted, nor was any Doctor examined and as such the necessary ingredients

required for making out an offence under Section 307 is not available and the appellant deserves for an order of acquittal by setting aside of the impugned judgment of conviction.

6. Per contra, the State counsel opposing the appeal submits that the plain reading of the statement of the injured PW/3 itself it would be evidently clear that the present appellant had all the intention of causing injury with which he could have died as the appellant had used a bow and arrow as the weapon for assaulting the complainant PW/3. According to the State counsel, the injury or Doctor's statement may not be required in the nature of allegation, as the allegation itself is that of an attempt to murder which has been made by the present appellant. Therefore the injury or the evidence of a Doctor would not be a vital factor necessary for establishing the offence under Section 307. The State counsel further submits that the evidence of the other witnesses, particularly the statement of PW/5-the wife of the complainant Somari Bai, so also the statements of PW/4-Shivnandan would further establish the offence committed by the present appellant. Though PW/6 and PW/7 have turned hostile, however the statement of PW/4-Shivnandan strengthens the case of the prosecution in as much as the Shivnandan was the person, who had plugged the arrow, which was used by the present appellant in assaulting PW/3 and he had brought the arrow and given it to the complainant PW/3, with which the complaint was later lodged.
7. The counsel for the appellant submits that the prosecution case further get strengthened from the prosecution story itself, as on the same day the present appellant is said to have murdered his wife-

Jukan Bai with an axe, later he is also said to have killed another lady-Jaimuniya Bai, one of the aunt of the present appellant. Likewise, on the very same day, he is further said to have assaulted Tejuram with the axe and for all these three incidents he has been separately prosecuted vide Sessions Trial Nos. 93/2009, 94/2009 & 19/2011. Thus, in the given facts, the State counsel prayed for rejection of the appeal.

8. Having heard the contentions put forth on either side and on perusal of the record what comes out in the course of trial is the statement of PW/3-Budhram, which was recorded during the course of the investigation, the F.I.R. and the statement before the trial Court, there seems to be consistency in the statement, so also the evidence of PW/3-Budhram stands corroborated from the 4 persons, who had reached the spot immediately on the alarm raised by the complainant Budhram, i.e. PW/5, the wife of the complainant Somari Bai and PW/4-Shivnandan. Though PW/6 and PW/7 have turned hostile, but so far as the incident is concerned, there seems to be no dispute. Moreover, the statements of PW/4 and PW/5 itself provide sufficient strength to the prosecution case, as PW/4 was the person, who had brought the arrow, which was used by the present appellant towards the complainant PW/3. Further, the case of the prosecution gets strengthen on the memorandum statement recorded of the appellant, at whose instance the recovery of an arrow vide exhibit P/1 was made and which was in possession of the present appellant.
9. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that the appellant has been rightly prosecuted for

the offence under Section 307 for the reason that if the arrow, which was shot by the present appellant, would have hit the complainant PW/3, particularly, when the present appellant is said to have aimed at the neck of the complainant, the same could have proved fatal and it could have also caused death. Thus, there was a clear attempt made by the present appellant to murder the complainant PW/3.

10. Given the facts and circumstances and the evidence which have come on record, this Court does not find any strong case made out by the appellant calling for an interference with the impugned judgment of conviction.
11. The appeal thus deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved