

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL APPEAL NO. 426 OF 2010

Jayram Chauhan, Age 45 years, S/o Lobhan Ram Chauhan, R/o village Gudlu, PS & Teh. Bagicha, Distt. Jashpur (CG).

... Appellant

Versus

State of Chhattisgarh through the District Magistrate, Jashpur (CG).

... Respondent

For Appellant	:	Smt. Krishna Gupta, Advocate.
For Respondent/State	:	Shri Vinod Takem, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

JUDGMENT ON BOARD

On 06.01.2018

1. The appellant stands convicted for the offence punishable under Section 304 Part-II IPC and has been sentenced to undergo RI for 7 years vide judgment dated 05.01.2010 passed by the Sessions Judge, Jashpur, in Sessions Trial No.53/2009.
2. The case of the prosecution is that, the present appellant is said to have assaulted his wife Vijayshree on 13.04.2009 with hand & fist and kick blows and also used a club which is said to have been inserted in the private part of the deceased and on account of the injuries sustained, she died on the next day i.e. on 14.04.2009. An FIR, Ex. P/10 was lodged on 14.04.2009. After investigation the matter was put to trial before Sessions Judge, Jashpur, where the case was registered as Sessions Trial No.53 of 2009.
3. In all, the prosecution examined 7 witnesses and there was no witness in defence.

4. The contention of the appellant assailing the conviction is that, there is no independent evidence proved by the prosecution to establish the case of the prosecution and thus the conviction of the appellant is said to be bad in law. According to appellant, all the independent witnesses who have been examined including the person on whose instance the FIR was lodged i.e. Ramlal, PW-1, have also turned hostile and not supported the case of the prosecution with which the findings of guilt by the court below does not seem to be proper, legal and justified and thus prayed for setting aside the judgment of conviction and for acquitting the appellant from the charges levelled against him.
5. The State counsel however submits that there is ample evidence with which it can be clearly stated that the case of the prosecution has been duly proved and established beyond all reasonable doubts. According to State, the statement of Ramlal, PW-1, who is an eyewitness, is sufficient to prove the case of the prosecution which stands corroborated from the statement of L.R. Chauhan, PW-7, the person who had recorded Dehati Nalisi as well as the FIR. Further, so far as the injuries caused is concerned, the postmortem report Ex. P/5, which has been proved by PW-5, Dr. R.N. Dubey, also shows that the deceased in the instant case died because of the injuries that she has sustained and thus, prayed for rejection of the appeal.
6. Having considered the rival contentions put forth on either side and on perusal of records, what clearly reflects is that, Dehati Nalisi, Ex. P/9 was recorded by PW-7, L.R. Chauhan, from the Hospital where the deceased was admitted immediately after the incident. Thereafter, FIR

Ex. P/10 was also lodged again by the same L.R. Chauhan, PW-7 during the course of investigation on 14.04.2009 i.e. the date on which the deceased died. The said PW-7, L.R. Chauhan, A.S.I., is said to have recorded the statement of PW-1, Ramlal, who in his evidence, has categorically stated that on the evening of 13.04.2009 he had witnessed the present appellant dragging the deceased out of his house and bringing her on the road and is said to have been assaulted her with hand and fist and kick. In the statement which was recorded on 14.04.2009 he has also stated that the appellant herein had used a club which was inserted in the private part of the deceased. Though PW-1 before the court has turned hostile, but in his examination in chief, he has accepted the fact of witnessing the appellant assaulting the deceased.

7. Thus, so far as the incident that take place on 13.04.2009 and the injuries sustained thereon stands proved as the deceased died on the very next day i.e. on 14.04.2009. The injuries which have been caused to the deceased stood proved from the doctor's evidence PW-5, R.N. Dubey, who had also submitted postmortem vide report Ex. P/5 where the cause of death was cardiac arrest due to injuries on the chest and different parts of the body. The injuries caused to the private part on account of insertion of the club by the appellant also stands proved in the postmortem report.
8. Thus, from the statement of Ramlal, PW-1 which stands corroborated thereafter from the statement of L.R. Chauhan, PW-7 and the death of deceased on 14.04.2009, all completes the chain of events to establish

that the deceased had died on account of assault made by the present appellant himself. Though the other witnesses i.e. PW-2, PW-3 and PW-4 have not supported the case of the prosecution, but the fact that the main witness PW-1, Ramlal, an eyewitness, has established the case of the prosecution to the extent of having witnessed the assault on previous date proves the case of the prosecution beyond reasonable doubts and which stands corroborated from the statement of PW-7, L.R. Chauhan. There is no rebuttal to the said evidence of L.R. Chauhan so far as his statement recorded on 14.04.2009 and the version of PW-1, Ramlal also has not been controverted from the cross examination which was made on the part of the appellant to disbelieve the said statement.

9. Given the facts and circumstances of the case and the evidence which have come on record, this court does not find any illegality or infirmity on the part of the trial court in reaching to the conclusion holding the appellant guilty of offence under Section 304 Part-II IPC. Thus, affirming the judgment of conviction and the sentence imposed, the appeal thus deserves to be and is hereby dismissed.
10. It is informed that the appellant, in due course of time, has completed his sentence and has been released from jail on 26.01.2013 and thus, no further steps is required to be taken.

Sd/-
(P. Sam Koshy)
Judge