

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1400 of 2015

1. Shravan Kumar Sharma son of Shri Prabhunath Sharma, aged about 25 years, R/o Indira Chawk, Devar Para, Station Maroda, PS Nevai, Civil and Revenue District Durg, CG

---- Appellant

Versus

1. State of Chhattisgarh through District Magistrate, Durg, Civil and Revenue District Durg, CG

---- Respondent

For Appellant	-	Shri Keshav Dewangan, Advocate.
For Respondent	-	Shri Lav Sharma, PL

Hon'ble Shri Justice Pritinker Diwaker

Judgment on Board

08.09.2018

This appeal is directed against the judgment and order dated 28.07.2015 passed by Additional Sessions Judge, Durg in Sessions Trial No. 105/2014 convicting the accused/appellant under Section 307 (twice) and 325 IPC and sentencing him to undergo rigorous imprisonment for seven years with fine of Rs. 100/- (twice) u/s 307 and rigorous imprisonment for three years with fine of Rs. 100/- u/s 325 IPC, plus default stipulations.

2. Facts of the case in brief are that on 01.12.2013 the accused/appellant caused knife injuries to Shrawan Kumar Deshlahre (PW-2), Prem Prakash (PW-4) and Ved Prakash (PW-7). FIR (Ex. P-19) was lodged by Godawari (PW-1) – the wife of PW-2 based on which offence under Sections 294, 506-II and 323 IPC. Three injured witnesses were medically examined by Dr. R.K. Naik (PW-9) who gave

reports Ex. P-10 regarding PW-2, Ex. P-12 regarding PW-4 and Ex. P-11 regarding PW-7. The Court below framed the charge against the accused/appellant under Sections 307, 325 and 506-II IPC.

3. So as to hold the accused/appellant guilty, prosecution has examined 14 witnesses in support of its case. Statement of the accused/appellant was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the charge levelled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, the trial Court has convicted and sentenced the accused/appellant as mentioned above in paragraph No.1 of this judgment.

5. Counsel for the accused/appellant submits that he is not pressing this appeal as far as it relates to conviction part of the judgment impugned. He however submits that looking to the facts and circumstances of the case, it would be in the interest of justice if the sentence imposed on the accused/appellant is reduced to rigorous imprisonment for five years from that of seven years.

6. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that the findings recorded by the Court below convicting and sentencing the accused/appellant as described above are strictly in accordance with law and there is no infirmity in the same.

7. Heard counsel for the parties and perused the evidence on record.

8. Godawari (PW-1) is the lodger of the FIR and wife of Shrawan Kumar Deshlahre (PW-2) has stated that on the date of incident when her husband asked the accused/appellant not to visit the house of her niece in the night hours, he started abusing him and also caused injuries with the help of brickbats resulting in fracture of his hand. The accused/appellant is also stated to have caused injuries to PW-4 and PW-7. In cross-examination also this witness remained firm to what she stated in the examination-in-chief. Shrawan Kumar Deshlahre (PW-2) – the injured has also supported the case of the prosecution stating that when he asked the accused/appellant not to visit the house of his maternal niece, he abused and caused injuries with the brickbats resulting in the fracture of his left wrist. He is also stated to have caused knife injuries to PW-4 and PW-7. Prem Prakash Dhritlahre (PW-4) – another injured has also stated that when he asked the accused as to why he assaulted his father, he (accused) inflicted a knife blow on his stomach and chest. Ved Prakash Dhritlahre (PW-7) – yet another injured has also supported the case of the prosecution stating almost the same thing as (PW-4) has put forth. Accused/appellant is also stated to have caused injury with knife on the stomach of this witness. D.K. Sahu (PW-6) is the Patwari who prepared spot map Ex. P-3. Dr. Sarita Minj (PW-8) is the witness who did initial treatment of injured PW-4 and PW-7 but as the proper medical facilities were not available in the said hospital, they were referred to Medical College, Raipur. Dr. R.K. Nayak (PW-9) is the witness who medically examined PW-2, PW-4 and PW-7 and gave her reports Ex. P-10, P-11 and P-12. Report Ex. P-10 pertaining to injured Shrawan (PW-2) shows swelling on wrist and x-ray was advised; report Ex. P-11 pertaining to injured Ved Prakash (PW-7) shows two

incised wounds on stomach on account of which intestines had protruded; and the report Ex. P-12 pertaining to injured Prem Prakash (PW-4) shows incised wound on chest. Radiologist namely Dr. B.N. Dewangan (PW-13) has stated that injured (PW-2) had suffered fracture on left wrist. Dr. R.P. Singh (PW-10) also gave treatment to injured Prem Prakash and Ved Prakash. Lakhanlal Katlam (PW-11) is the investigating officer who duly supported the case of the prosecution. M.B. Patel (PW-12) is the witness who assisted in the investigation.

9. We have heard counsel for the parties and perused the material available on record including the evidence of the witnesses in particular that of injured (PW-2, PW-4 and PW-7) and the doctor (PW-9) who medically treated them as also that of the radiologist (PW-13) who took x-ray of PW-2. From the medical reports of PW-4 and PW-7 (Ex. P-11 and P-12) and the evidence of PW-9, the doctor treating the victims, it is apparent that PW-4 and PW-7 suffered knife injuries on stomach and chest with protrusion of intestines and remained in hospital for treatment for about 10 days and that during this period they underwent surgery also. Likewise, injured PW-2 also suffered fracture on his left wrist as has been opined by the radiologist. Thus considering the overall evidence on record this Court is of the opinion that the prosecution has collected sufficient material against the accused/appellant to establish his complicity in the crime in question. So also the Court below has appreciated the entire evidence in its proper perspective and there seems to be no scope for interference in the findings recorded by it. Further, keeping in mind the act of the accused/appellant where he assaulted three persons making two of them remain hospitalized for 10 days this Court does not wish to

reduce the sentence also as prayed by the counsel for the accused/appellant.

10. In the result, the appeal being without any substance is liable to be dismissed and it is dismissed as such. Being already inside, no order is needed to send the accused/appellant to the prison etc.

Sd/-
(Pritinker Diwaker)
Judge