

HIGH COURT OF CHHATTISGARH, BIILASPUR

CRIMINAL APPEAL NO. 2681 OF 2000

1. Jamadar alias Jamadas S/o Ghurdas Satnami, aged about 19 years,
2. Ghurdas S/o Paltu Satnami, aged about 58 years,
3. Raj Bai W/o Gurdas Satnami, aged about 46 years,
- All are R/o Village Tekahardi, Police Station Laalbaagh, District Rajnandgaon (C.G.)

....Appellants

Versus

State of M.P. through police Station Laalbaagh, District Rajnandgaon (M.P.)
(Now Chhattisgarh)

....Respondent

For Appellants : Mr. Abhishek Sharma, Advocate

For Respondent : Ms. Seema Dixit, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment On Board

10/12/2019

1. This appeal has been preferred against the judgment dated 20/12/1999 passed in Sessions Trial No. 150/1999 by the Sessions Judge, Rajnandgaon, whereby the Appellants have been convicted in the following manner:-

Conviction	Sentence
For Appellant No. 1.	
Under Sections 307 of the IPC	RI for 3 years and to pay fine of Rs. 500 with default stipulation
Under Section 506-B of the IPC	RI for 6 months
For Appellants No. 2 & 3	
Under Section 307 of the IPC	RI for 3 years and to pay fine of Rs. 100 with default stipulation

2. Facts of the case are that on 17/07/1999 at about 11:00 am, Complainant/Injured Sukhiya Bai along with her son and daughter-in-law was working in her feild. Appellant No. 1 came there with Lathi and abused Sukhiya Bai. He also assaulted her by Lathi due to which she sustained injuries. It is alleged that Appellants No. 2 & 3 were instiagating Appellant No. 1 for assaulting Sukhiya Bai.

The matter was reported. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. As many as 8 prosecution witnesses have been examined. No defence witness has been examined, Statement of the Appellants under Section 313 of the Cr.P.C have been recorded, wherein they have pleaded their innocence and false impliation in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned counsel appearing on behalf of the Appellants submits that the Appellants have been wrongly convicted without there being any clinching evidence available on record. He further submits that from the statement of the Injured/Complainant Sukhiya Bai, it is apparent that due to sudden quarrel, Appellant No. 1 assaulted her and caused only 3 injuries. Out of those injuries, only one injury is on her head and remaining injuries are not on vital part of the body. All the injuries are of simple nature, therefore, no offence under Section 307 of the IPC is established. He further submits that if the entire case of the prosecution is taken as it is, yet offence under Section 323 of the IPC would be made out against the Appellants. He further submits that Appellant No. 1 has already undergone about 15 days in jail and Appellants No. 2 & 3 have already undergone about 6 days in jail, therefore, he prays that affirming the conviction under Section 323 of the IPC, the jail sentence awarded to the Appellants may be reduced to the period already undergone by them.
5. Learned counsel appearing on behalf of the State opposes the argument advanced by the counsel for the Appellants and submits that there is sufficient evidence available on record to convict the Appellants, therefore, the conviction does not require any interference.
6. I have heard counsel for the parties and perused the record minutely.
7. Complainant Sukhiya Bai (PW1) in her Court statement has deposed that at the time of incident, she was cutting grass in her feild and was abusing to grass. Listening this, Appellant No. 1 started quarreling with her saying that she was

abusing him. He also assaulted her due to which she sustained injuries. She further deposed that Appellants No. 2 & 3 were instigating Appellant No. 1 for assaulting her. In her cross-examination, this witness has admitted that Appellants No. 2 & 3 are her Jeth and Jethani and Appellant No. 1 is son of Appellants No. 2 & 3. Sugandhu Das (PW2) and Dashri Bai (PW3) have also supported the above statement of the Complainant.

8. Dr. R.R. Mandele (PW5) has examined the Complainant on 17/07/1999. His report is Ex.P-4. According to MLC report of the Complainant, total three injuries was sustained by her her which are as follows:-

- i. Lacerated wound size 4 X 1 X 1/2 inch on the middle part of the temporal region.
- ii. Lacerated wound size 1/2 X 1/2 X 1/4 cm below the left elbow.
- iii. Swelling on the forearm of the left hand.

In para 7, this witness has deposed that according to his opinion, all the injuries were of simple nature.

9. On minute examination of the above evidence, it makes clear that the Complainant has categorically stated that at the time of incident, Appellant No. 1 assaulted her and Appellants No. 2 & 3 were instigating him to assault the Complainant. The above statement was duly supported by Sugandhu Das (PW2) and Dashri Bai (PW3). From the MLC report of the Complainant, it is also established that three injuries were sustained by her and all the injuries were of simple nature. Out of those injuries, injury No. 1 was on her head. From the statement of the Complainant, it is also established that both the parties are close relatives and there was previous dispute between them. On the date of incident also, a dispute arose between them on the matter that the Complainant was abusing to grass. There was no previous complainant of any assault between the parties. From the statement of the Complainant, it is also established that when other witnesses reached to the spot, Appellant No. 1 had fled away from the spot. If Appellant No. 1 would had an intention to kill the Complainant, then he would not have fled away from the spot. Thus, it is clear that there was no intention of

Appellant No. 1 to kill the Complainant and in a sudden quarrel, he assaulted the Complainant, therefore, in my considered view no offence under Section 307 & 506-B of the IPC is made out against Appellant No.1 and only offence under Section 323 of the IPC should be made out against him. Likewise, no offence under Section 307 of the IPC should be made out against Appellants No. 2 & 3 and offence under Section 323 read with 109 of the IPC should be made out against them.

10. Accordingly, the Appellant No. 1 is acquitted from the charge framed under Sections 307 & 506-B of the IPC and Appellants No. 2 & 3 are acquitted from the charge framed under Section 307 of the IPC, however, Appellant No. 1 is convicted under Section 323 of the IPC and Appellants No. 2 & 3 are convicted under Section 323 read with 109 of the IPC. Since, Appellant No. 1 has already undergone about 15 days of jail sentence and Appellants No. 2 & 3 have already undergone about 6 days of jail sentence, therefore, the jail sentence awarded to them are reduced to the period already undergone by them.
11. In the result, the Appeal is partly allowed to the extent indicated above.
12. Records of the Court below along with the copy of this judgment be sent back to the concerned trial Court for necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge