

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1239 of 1999

1. Paltan, S/o Ghasiya Rawat, aged about 51 years.
 2. Ratan, S/o Paltan Rawat, aged about 23 years.
- Both are R/o Bardula, Thana & Tahsil- Sarangarh, District- Raigarh (C.G.)

---- Appellants

Versus

The State of Madhya Pradesh (Now Chhattisgarh), through the District Magistrate, Raigarh (C.G.)

---- Respondent

For Appellants : Mrs. Usha Chandrakar, Advocate.
For State/respondent : Mr. Raghvendra Verma, G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

23/10/2019

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against judgment dated 19.04.1999 passed by Sessions Judge, Raigarh (C.G.) in Criminal Appeal No. 174/1998, wherein the said court convicted both the appellants for commission of offence under Section 326/34 of IPC, 1860 and sentenced them to undergo R.I. for one year and fine of Rs. 2000/- each with further default stipulations.
2. As per case of the prosecution, there is dispute between complainant- Mansharam and the appellants in relation to ancestral property and one Panchayat meeting was held on 23.02.1996 which was not attended by appellant No.1- Paltan. When Mansharam was coming to his barn at about 2.00 a.m.

on 24.02.1996, both the appellants assaulted him by axe and club. The matter was reported and after investigation, they were charge-sheeted as mentioned above. They were convicted by the trial court. In an appeal, thereafter, the appellate court confirmed conviction of both the appellants as mentioned above.

3. Learned counsel for the appellants submits as under:-

(i) The evidence of prosecution witnesses is contradictory in nature and there is material omission, even then the trial court relied in their statement.

(ii) There is no evidence that the appellants have caused grievous injuries by sharp edged weapon.

(iii) The FIR is not proved, therefore, the finding arrived at by the trial court is liable to be set-aside.

4. On the other hand, learned State counsel submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same is not liable to be interfered with invoking jurisdiction of appeal.

5. I have heard learned counsel for the parties and perused the record.

6. From evidence of Mansharam (PW-1), it is established that both the appellants assaulted him by axe and club when he reached near his barn. Version of this witness is supported by version of Dr. B.K. Chandravanshi (PW-10) who found injuries on his body caused by sharp object. Again, after X-ray, it is

found that fracture is caused to the victim. Causing grievous injuries with sharp edged weapon is an offence punishable under Section 326 of IPC read with Section 34 of IPC for which the trial court convicted the appellants as mentioned above.

7. In the present case, the material witness is evidence of the complainant and the medical expert. There is nothing on record to say that the complainant had any grudge to rope the appellants in any false charge. Looking to the entire evidence, the argument advanced on behalf of the appellants is not sustainable.
8. The conviction of the appellants is hereby affirmed. The first appellate court awarded sentence of one year and fine of Rs. 2000/- each for commission of offence under Section 326/34 of IPC, which cannot be termed as harsh, disproportionate or unreasonable looking to the gravity of offence. The sentence part is also not liable to be interfered with. Accordingly, the appeal is liable to be and is hereby dismissed.
9. It is reported that the appellants have suffered full jail sentence and have been released from jail after getting benefit of remission, therefore, no further order of arrest etc. is required.

Sd/-
(Ram Prasanna Sharma)
Judge