

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.250 of 2010**

Amarsingh S/o. Shukhlal Rathiya, Aged about 31 years,
R/o. Village Navagaon, Thana Dharamjaigarh, District
Raigarh (CG)

---- Appellant**Versus**

State Of Chhattisgarh Through Station House Officer, P.S.
Dharamjaigarh, District Raigarh (CG)

---- Respondent

For the appellant : Shri RK Pali, Advocate

For the State/respondent : Shri Ravish Verma, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board****25.3.2019.**

1. The appeal is directed against judgment dated 03.4.2010 passed by Sessions Judge, Raigarh (CG) in Session Trial No.40/2009 wherein the said Court convicted the appellant for commission of offence under Section 325 of the Indian Penal Code, 1860 and sentenced him to undergo rigorous imprisonment for two years.

2. As per the prosecution case, on 03.01.2009 at 8.00 pm the appellant assaulted Teejram Rathia with burning wooden stick resulting into his death on 12.01.2009. The matter was reported, the appellant was charge sheeted and convicted as mentioned above.

3. Learned counsel for the appellant submits as under:

(i) The trial Court has failed to appreciate that the eye witnesses have not supported the case of the prosecution, therefore, their testimony should not have been accepted.

(ii) The memorandum and seizure of article have not been duly proved by the prosecution and there are many discrepancies in the deposition of the prosecution witnesses. Therefore, finding arrived at by the trial Court is not sustainable.

4. On the other hand, learned counsel for the State supporting the impugned judgment would submit that the finding of the trial Court is based on proper marshaling of the evidence and the same is not liable to be interfered with while invoking the jurisdiction of the appeal.

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

6. Sumit Ram (PW-1) is the eyewitness account of the incident and as per the version of this witness, the appellant assaulted deceased Teejram by wooden stick on his head due to which he fell unconscious and after nine days of the incident, i.e. on 12.01.2009 he succumbed to the injuries. Version of Sumit Ram (PW-1) is supported by the version of Ramkumar (PW-3) and Manmoti (PW-4). All these witnesses have been subjected to searching cross-examination but nothing could be elicited in favour of the defence and their version remained unshaken. Version of Sumit Ram (PW-1) is supported by FIR (Ex-P/1) lodged by him on the next date of incident at Police Station Dharamjaigarh in which the appellant is named as culprit and his act of assault is also mentioned in the FIR.

7. Dr. BL Bhagat (PW-9) examined Teejram and found contusion on his head and opined that the same is caused by hard and blunt object caused within 12-24 hours since examination. Dr. AK Kushwaha (PW-12) deposed that subdural hematoma was found in the brain of victim Teejram and the same was supported by Dr.

AM Gupta (PW-13). Looking to the entire evidence, it is clearly established that the victim sustained injuries on account of assault made by the appellant. All the witnesses were firm on their versions, therefore, arguments advanced on behalf of the appellant that the evidence of the prosecution witnesses is not reliable, is without substance. Any injury which endangers life is grievous in nature that is why the trial Court recorded the finding of conviction under Section 325 IPC. After reassessing the entire evidence, this Court has no reason to substitute a contrary finding. The trial Court sentenced him RI two years which cannot be termed as harsh, disproportionate or unreasonable. Therefore, sentence part is also not liable to be interfered with.

8. Accordingly, the appeal is liable to be and is hereby dismissed. The appellant is reported to be on bail and his bail bonds are cancelled. The trial Court will prepare super-session warrant and issue warrant of arrest against the appellant and after his arrest, he be sent back to the concerned jail for serving out the remaining part of the jail sentence. The trial Court shall submit compliance report on or before 10th July, 2019.

Sd/-

(Ram Prasanna Sharma)
JUDGE