

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 30.08.2019****Pronounced on 02.09.2019****CRIMINAL APPEAL No. 961/2007**

(Arising out of judgment of conviction and order of sentence dated dated 04.10.2007 passed by Additional Sessions Judge, Pendra Road, District Bilaspur (CG) in ST No. 386/2006).

Suraj @ Sheshmani, aged about 21 years, Caste Jogi, S/o Bhagwat, R/o Village Andhiyar Khoh, Bhatthitola, District Bilaspur (CG).

----Appellant**-Versus-**

State of Chhattisgarh, through P.S. Gourela, District Bilaspur (CG).

----Respondent

For Appellant : Ms. C.K. Navrang, Advocate
For State/Respondent : Mr. D.C. Verma, Govt. Advocate

Hon'ble Shri Sharad Kumar Gupta, Judge
C.A. V. JUDGMENT

1. In this criminal appeal the challenge levied is to the judgment of conviction and order of sentence dated 04.10.2007 passed by Additional Sessions Judge, Pendra Road, District Bilaspur (CG) in ST No. 386/2006 whereby and whereunder he convicted and sentenced the appellant as under:-

Offence under Section	RI for	Fine Rs.	RI in default of payment of fin
307, IPC	7 Years	200/-	1 Month

2. In brief, case of the prosecution is that on 16.04.2006 at about 11:00 p.m. at village Guma (Garhatola) appellant Suraj @ Sheshmani caused injury on forehead near the right eye, on right cheek, right wrist of the body of complainant Pappu @ Duman Singh by axe. Bodhu Ram lodged an F.I.R. on 17.04.2006 at 00.45 hrs. at police station Gourela. After completion of the

investigation a charge sheet was filed against him. The Trial Court convicted him as aforesaid.

3. Counsel for the appellant argued that Trial Court has not appreciated the evidence in proper perspective. The conviction and the sentence of the appellant are bad in eyes of law. Thus, the appellant may be acquitted of the aforesaid charge.

4. Counsel for the State argued that the conviction and the sentence of the appellant is based on clinching evidence. The conviction and sentence of the appellant do not call for interference by this Court.

5. As per the alleged M.L.C. report Ex. P-1 P.W.-1 Dr. Achchhe Lal Kurram had examined the complainant and found following injuries on his body:-

(i) one sharp cut wound over forehead extended upto intra orbital region margin along side middle canthus, upper and lower of canaliculi of puncta of eye lid cut through, size 16 cm x 2.5 cm, muscle deep, active bleeding was present,

(ii) one sharp cut wound on right cheek, size 4 cm x 2 cm x muscle deep, active bleeding was present,

(iii) one sharp cut wound over left fore arm, size 4 cm x 2 cm x muscle deep,

(iv) one sharp cut wound on the right side of back over posterior axillary line, size 9 cm x 1 cm x muscle deep.

6. As per Ex. P-1, injuries were caused by sharp edge object, grievous in nature.

7. There is no such evidence on record on strength of which

it can be said that Ex. P-1 is not believable. Thus, this Court believes on Ex. P-1.

8. As per the alleged report Ex. P-3, P.W-1 Dr. Achchhe Lal Kurram opined that if the complainant could not have immediately treated he would have died.

9. There is no such evidence on record on strength of which it can be said that Ex. P-3 is not believable in that reference. Thus, this Court believes on Ex. P-3 in that reference.

10. As per the alleged memorandum Ex. P-9 the appellant had given the information that he concealed one axe in his house.

11. As per the alleged seizure Ex. P-10, one axe was seized from the appellant.

12. There is no such material available on record on strength of which it can be said that Ex. P-9 and Ex. P-10 are not believable in that reference. Thus, this Court believes on Ex. P-9 and Ex. P-10 in that reference.

13. As per the alleged R.F.S.L. report Ex. P-17, blood was found on Article D- axe.

14. There is no such material available on record on strength of which it can be said that Ex. P-17 is not believable in that reference. Thus, this Court believes on Ex. P-17 in that reference.

15. P.W.3 complainant Pappu @ Duman Prasad says in para 3 of his statement given on oath that the appellant had caused injuries near right eye, right wrist by axe.

16. P.W.-2 Smt. Jageshwari Bai who is mother of complainant

says in para No.3 that complainant had told that the appellant had caused injuries by axe.

17. P.W.-8 Girdhari, who is the father of complainant says in para No. 2 of his statement given on oath that complainant told that the appellant had caused injuries by axe.

18. As per the alleged F.I.R. Ex. P-7 the appellant had caused injuries on the body of complainant.

19. There is no such material available on record on strength of which it can be said the Ex. P-7 is not natural.

20. Looking to the above mentioned facts and circumstances of the case, this Court finds that prosecution has succeeded to prove beyond reasonable doubt the charge punishable under Section 307 of the IPC against the appellant. The sentence awarded by the Trial Court is just and sufficient, and not excessive. Consequently the aforesaid judgment of the conviction and order of the sentence are hereby affirmed.

21. Consequently, the appeal being devoid of merit, deserves to be and is hereby dismissed.

22. As per report of the Central Jail, Bilaspur dated 17.12.2018 appellant has been released on 02.12.2010 after completion of sentence extending benefit of remission to him, thus, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge