

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 25-1-2019

Delivered on 11-2-2019

Criminal Appeal No. 382 of 2011

- Krishna Murari s/o. Harishchandra Soni, age about 35 years, r/o. Pcharighat, Juna Bilaspur, Police Station City Kotwali, Bilaspur, District Bilaspur (CG).

---- Appellant**Versus**

- The State of Chhattisgarh Through Police Station City Kotwali, Dist. Bilaspur (CG).

---- Respondent

For the appellant : Mr. J.K. Gupta, Advocate

For the respondent/State : Mr. Ravish Verma, Govt. Adv.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV Judgment**

1. This appeal is directed against the judgment of conviction and order of sentence dated 29-3-2011 passed by 9th Additional Sessions Judge (FTC), Bilaspur (CG) in Sessions Trial No. 104 of 2010 wherein the said Court convicted the appellant for the commission of offence under Section 326 of the IPC and sentenced him to undergo rigorous imprisonment for three years and to pay fine of Rs.500/- with default stipulations.

2. In the present case, names of the victims are Smt. Neelu Soni and Diyar Soni. Date of incident is 13-3-2010 at the house of

victim situated at Pacharighat, Juna Bilaspur. As per version prosecution, both victims are wife and son of the present appellant. Appellant was suspecting his wife and was not living with her. On the date of incident at about wee hours the appellant came to the house of victim Smt. Neelu Soni and told her that she had proud of her face, but he would deface her and poured acid on her, resulting into burn injury on face, chest, leg and back by the victim. Again, he poured acid over his son Diyar Soni who also received burn injuries on different parts of the body. The matter was reported to the Police Station and after completion of investigation charge sheet was filed, the appellant did not plead guilty and the trial was conducted. After completion of trial, the trial Court convicted and sentenced the appellant as aforementioned.

3. Learned counsel for the appellant submits as under:

- I) The appellant was not having any motive or intention to commit murder for which he has been punished.
- II) The matter is trivial in nature and relates to wife and husband and possibility of pouring acid by Neelu Soni cannot be ruled out, therefore, finding of the trial Court is liable to be reversed.

4. On the other hand, learned counsel for the State submits that the finding recorded by the trial Court is based on proper

marshaling of evidence and the same is not required to be interfered while invoking the jurisdiction of the appeal.

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

6. PW/1 Smt. Neelu Soni deposed before the trial Court that she was at home at night where the appellant abused her and then threw acid from the bottle on her head. Diyar Soni (PW/2) also deposed on same line. Version of both these witnesses is supported by version of Pawan Soni (PW/5) and Tigesh Shukla (PW/6). All the witnesses have been subjected to searching cross examination, but nothing could be elicited in favour of defence and their version remained unshaken. Version of direct evidence is supported by version of Dr. Rahul Bhargav (PW/9) who examined Smt. Neelu Soni and found burn injury of 34% in her face, throat, chest and back of both hands. Dr. C. Mishra (PW/10) examined Diyar Soni and found 15% burn injuries on his face and throat.

7. Looking to the entire evidence, the trial Court opined that the injuries caused to Smt. Neelu Soni were grievous in nature and injuries were burn injuries, the act of the appellant falls within mischief of Section 326 of the IPC.

8. After re-assessing the entire evidence, this court has no reason to record a contrary finding. Conviction of the appellant is hereby affirmed.

9. Heard on the point of sentence.

The trial Court awarded rigorous imprisonment for three years which cannot be termed as harsh, unreasonable or disproportionate. Sentence part is also not liable to be interfered.

10. Accordingly, the appeal being devoid of merits is liable to be and is hereby dismissed. The appellant is reported to be in jail, therefore, no further arrest for his arrest etc., is required.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Raju