

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRR No. 525 of 2009

Samunder Sai, S/o Maniram Kewat, age 38 years, resident of
Village Karmitikra, P/s. Darima, District Surguja (CG)

----Applicant

Versus

State Of Chhattisgarh, through District Magistrate, Surguja,
Ambikapur (CG)

---- Respondent

For Applicant : Shri Rishi Rahul Soni, Advocate

For State/Respondent : Shri Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

02/04/2019

According to the case of prosecution, on 20.01.2003 when the victims PW-2 and PW-3 were sitting in their house, the accused/applicant herein along with his wife (acquitted by the trial Court itself) came there and asked them to settle the land related dispute between them. It is alleged that when the wife of complainant tried to intervene in the matter, the accused/applicant assisted by his wife picked up the wooden handle of the plough lying nearby and inflicted injuries on her right wrist. Not only this, they also thrashed the complainant (PW-2) with hands and fists. On matter being reported to the Police, entry to that effect was made in the Rojnamcha Sanha on the basis of which FIR was reduced to writing against the accused/applicant and his wife under Sections 325/34 and 323/34 IPC. Subsequent to medical examination of PW-2 and PW-3 the charge-sheet was filed against them under these sections and framing of charge followed accordingly.

2. Learned trial Court vide judgment impugned dated 30.04.2009 passed in Criminal Case No.844/2005 acquitted the wife of the present applicant herein of all the charges levelled against her. Trial Court acquitted the present applicant also of the charge under Section 323/34

IPC but convicted him under Section 325 IPC and sentenced to undergo RI for 2 years with fine of Rs.500/- plus default stipulation. Learned lower Appellate Court however maintained the conviction of the accused/applicant but reduced the sentence to RI for one year from that of RI for two years as imposed by learned trial Court. Hence this revision.

3. Counsel for the accused/applicant submits that the findings recorded by the Court below are perverse for the reason that prosecution has utterly failed to prove the FIR before the trial Court. Evidence of other witnesses is also argued to be shaky in nature and, therefore, cannot be believed for sustaining the conviction of the accused/applicant under Section 325 IPC.

4. State counsel however supports the judgment impugned and submits that learned lower Appellate Court has given thoughtful consideration to the evidence on record while holding the accused/applicant guilty for the charges levelled against him and, therefore, there is no scope of interference by this Court.

5. The evidence of PW-2 - one of the victims clearly goes to show that on the date of incident when he along with his wife was sitting in their house, accused/applicant along with his wife came there and asked for settling the land related dispute. His evidence further goes to show that when his wife intervened in the matter the accused/applicant herein threw her down and inflicted injuries to her with the help of wooden handle of the plough as a result of which her right hand got fractured. Kaleshwari (PW-3) has also stated in the same terms as has been stated by PW-2. She has clarified that on the date of incident when she tried to intervene in the matter, the accused/applicant caused injuries on her hand with the help of wooden handle of the plough. The accused/applicant is also stated to have caused injury to PW-2 – the husband of PW-3. Another witness being PW-4 has also supported the case of the prosecution stating that on

the date of incident the accused/applicant caused injuries to PW-3 with the help of wooden handle of the plough as a result of which her right hand got fractured. She however has denied that she was deposing on being tutored by PW-2 and PW-3. PW-5 – the witness to seizure of wooden handle of the plough has also supported the case of the prosecution stating that the said seizure was made in his presence. PW-6 has also admitted his signature on the seizure memo vide Ex.P-3. The Radiologist (PW-7) who had taken x-ray of PW-3 has stated that he noticed fracture on the right radius bone of PW-3 vide report Ex.P-7. Over all evidence thus makes it clear that the accused/applicant went to the house of the victims, picked up quarrel on account of resolving the land related dispute and in the process he lifted the wooden handle of the plough lying nearby and inflicted injuries on the hand of PW-3 as a result of which her radius bone got fractured. No infirmity or illegality is, therefore, noticeable in the impugned order as far as the conviction of the accused/applicant is concerned. Conviction is hereby maintained.

6. As regards sentence, keeping in mind the fact that the victims and accused/applicant happen to be members of same family, that the incident had taken place in the year 2003 and that the accused/applicant has already remained in jail for about 15 days and has suffered a lot thereby, this Court feels it just and proper to reduce the sentence imposed on him to the period already undergone. Order accordingly. The sentence of fine imposed on him is however enhanced to Rs.1000/- which should be deposited in the Court below within a period of 4 months from today or else this order will not be available to him.

7. Revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
Judge