

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 589 of 2015**

Ballu Ram Kamar S/o Dashrath Kamar, aged about 40 years R/o Village Birjhuli,
Police Station Magarlod, Civil and Revenue District Dhamtari (C.G.)

----Appellant

Versus

State of Chhattisgarh Through the Police Station Magarlod, Civil and Revenue
District Dhamtari (C.G.).

---- Respondent

For Appellant	:	Mr. Roop Naik, Advocate
For Respondent	:	Mr. Amit Singh, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

15/07/2019

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 01/04/2015 passed in Sessions Trial No. 36/2014 by the Sessions Judge, Dhamtari (C.G.) convicting the Appellant under Section 307 of the IPC and sentenced him to undergo RI for 7 years and to pay fine of Rs. 50/- with default stipulation.
2. Facts of the case are that there was a dispute between Complainant/Injured Chhabilal (PW1) and the Appellant. It is alleged that on 18/07/2017 at about 8:30 pm, the Appellant abused the Complainant, threatened him and assaulted him by a broken piece like bow as a result of which, the Injured sustained grievous injuries. The incident was witnessed by Pramila, Ramkumar, Chandrotin and Premlal. The injured was treated and operated by Dr. Prafull Kumar Paikera (PW9) who found two injuries on the stomach of the Injured. The doctor

opined that the nature of injuries was grievous which is caused by sharp edged weapon. His report is Ex.P-13. The matter was reported by Chabbilal vide Dehati Nalsi Ex.P-1. During course of investigation, a piece of like bow has ben seized from the Appellant vide seizure memo Ex.P-5. Statement of witnesses under Section 161 of the Cr.P.C were recorded. After investigation, a charge-sheet has been submitted before the trial Court. Charges were framed. As many as 10 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C was recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that out of total jail sentence of 7 years, the Appellant has undergone around 4 years 10 months as he is in jail since 21/09/2014, there is no criminal antecedent of the Appellant, therefore, the jail sentence awarded to him may be reduced to the period already undergone by him.
4. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
5. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.

6. Considering the above facts and circumstances, particularly that out of total jail sentence of 7 years, the Appellant has undergone about 4 years and 10 months and there is no criminal antecedent of the Appellant, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentence awarded to him is reduced to the period already undergone by him
7. Consequently, the appeal is partly allowed. The conviction imposed upon the Appellant under the aforementioned Section is upheld, however, the jail sentence awarded to him is reduced to the period already undergone by him. The fine sentences imposed upon him is affirmed.
8. The Appellant be released forthwith, if not required, in any other case.
9. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge