

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Appeal No. 152 of 2019**

Dhannu Ram Yadav S/o Pandaru Yadav, aged about 48 years R/o Bakharupara, Narayanpur, Police Station and District Narayanpur (C.G.).

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

State of Chhattisgarh through Police of Police Narayanpur, District Narayanpur (C.G.)

**---- Respondent**


---

|                |   |                               |
|----------------|---|-------------------------------|
| For Appellant  | : | Mr. Govind Dewangan, Advocate |
| For Respondent | : | Mr. Amit Singh, PL            |

---

**Hon'ble Shri Justice Arvind Singh Chandel****Judgment on Board****08/07/2019**

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 07/12/2018 passed in Sessions Case No. 50/2015 by the Sessions Judge, Kondagaon (C.G.) convicting the Appellant under Section 307 of the IPC and sentenced him to undergo RI for 5 years and to pay fine of Rs. 200/- with default stipulation.
2. As per prosecution story, on 09/11/2014 at about 9:00 pm, the Appellant came to the house of Deceased Santuram for taking some article (Salfi) and the Deceased told him that he has no salfi. The Appellant returned to his house. It is alleged that after ½ hour, he again came to his house with one Tangiya and assaulted the Deceased on his head. The Deceased sustained injuries. The Deceased was taken to the hospital. FIR has been lodged by wife of the Deceased. After some treatment, the Deceased returned to his house. The Deceased died after due days due

to injuries sustained by him on his head. Merg (EX.P-4) was lodged by the relative of the Deceased. The postmortem of the Deceased was conducted by Dr. T.S. Nag (PW8). His report is Ex.P-14. He opined that the death occurred due to Septicemia. During course of investigation, an Axe and other articles have been seized vide Ex.P-8. Statements of witnesses under Section 161 of the Cr.P.C were recorded. After investigation, a charge-sheet under Section 302 IPC has been submitted. The trial Court framed the charge under Section 302 of the IPC. To prove the guilt of the Appellant, the prosecution has examined as many as 9 witnesses. Statement of the Appellant under Section 313 Cr.P.C has been recorded, wherein he pleaded his innocence and false implication in the matter. No defence witness has been examined.

3. After trial, the Trial Court has acquitted the Appellant from the charge framed under Section 302 of the IPC and convicted him under Section 307 of the IPC and sentenced him as mentioned in paragraph one of this judgment. Hence, this appeal.
4. 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 5 years, the Appellant has undergone about 4 years and 6 months as he is in jail since 16/12/2014, 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.
5. 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.

6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances, particularly that out of total jail sentence of 5 years, the Appellant has undergone about 4 years and 6 months as he is in custody since 16/12/2014 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
8. 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.
9. It is reported that the Appellant is in jail. He be released forthwith, if not required in any other case.
10. 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**