

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1279 of 2016

- Bajrang Singh S/o Birbal, aged about 35 Years Caste Gond, R/o Sarkari Para Amaru, Police Station-Pendra, District Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Pendra, District-Bilaspur, Chhattisgarh.

---- Respondent

For the Appellant : Mr. Barunkumar Chakrabarty, Advocate.

For the State/Respondent : Mr. Mahesh Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Judgment on board

07/02/2019

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 30.10.2013, passed by the Additional Session Judge, Pendra Road, District- Bilaspur, Chhattisgarh, in Sessions Trial No.60/2012, convicting the accused/appellant under Section 307 of Indian Penal Code (for short 'IPC') and sentencing him to undergo RI for 7 years with fine of Rs.200/- in default of payment of fine to undergo additional RI for two months.
2. The prosecution case, in brief, is this that on 14.7.2012 at about 4 pm complainant Than Singh PW-4, Mahesh Gond PW-3 and one Ram Singh were sitting on the spot. The appellant came on the spot and then he had some exchange of words with Mahesh Gond PW-3.

Appellant abused and threatened the victim and then assaulted him on his head with an axe with intention to cause his death. FIR ExP-5 was lodged by Than Singh PW-4. The victim Mahesh Gond PW-3 was medically examined and referred for treatment. Recovery and seizure of axe was made vide Exhibit-P-8 on the basis of memorandum statement Exhibit-P-7 from the appellant. The Investigation Officer made queries regarding the injuries caused to the victim and the seized article axe was also medically examined on the request made by Investigation Officer. Statement of witnesses were recorded.

3. On completion of investigation, the charge sheet has been filed before the concerned Court. Charges under Sections 294, 506-II & 307 of IPC were framed against the appellant, he denied the same and sought for trial. In order to prove the charge the prosecution had examined as many as 8 witnesses. Statement of appellant was recorded under Section 313 of CrPC in which he denied all the incriminating evidence appearing against him, pleaded innocence and false implication. No witness was examined by appellant in his defence. On conclusion of trial the appellant stands convicted and sentenced as aforesaid in the impugned judgment.
4. It is submitted by counsel for the appellant that as per report received from the concerned jail authority, the appellant has already been released from jail after serving out the entire substantive sentence imposed upon him by the trial Court. Even then, it is submitted that the appellant has been falsely implicated in the present case and has

been convicted & sentenced by the trial Court without there being any evidence to sustain the conviction & sentence, hence, only to restore of prestige of appellant the appeal be allowed.

5. Learned counsel for the State has opposed the grounds raised in this appeal as also the arguments advanced by the counsel for the appellant. It is submitted that prosecution has proved its case beyond doubt. The judgment impugned passed by the trial Court is strictly in accordance with law and needs no interference by this Court in exercise of its appellate jurisdiction. Hence, the appeal is liable to be dismissed.
6. I have heard learned counsel for the parties and perused the record of the trial Court including the impugned judgment.
7. The question that requires determination in this appeal is as to whether the prosecution has been able to establish guilt of accused/ appellant, on the basis of evidence beyond reasonable doubt ?
8. After perusing and closely scrutinizing the entire evidence available on record, it is apparent that the trial Court elaborately considered the evidence of each individual material witness in detail and that being the position, this Court is the opinion that the trial Court has not committed any mistake in arriving at a conclusion that the appellant is guilty for the offence punishable under Sections 294, 506-II & 307 of IPC . Hence, this appeal has no substance, the same is liable to be dismissed and is hereby dismissed.

9. Since the appellant has already served the period of rigorous imprisonment to which he was sentenced, no further direction regarding his surrender etc. is needed.

(Rajendra Chandra Singh Samant)
Judge

Nisha