

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRIMINAL APPEAL 683/2008**

(Arising out of judgment of conviction and order of sentence dated 20-6-2008 passed by Addl. Sessions Judge, Mungeli, Distt. Bilaspur (CG) in Sessions trial No. 27/2007)

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Manoj Kumar son of Rambharos Vadyakar, aged about 47 years, R/o. Sindhi Colony, Kasturba Nagar, Bilaspur, at present Kalimai Ward, Kharripara, Mungeli Distt. Bilaspur (CG)

---Appellant

-VERSUS-

State of Chhattisgarh through P.S. Mungeli, Distt. Distt. Bilaspur (CG)

---Respondent

For appellant	: Ms. Barun Kumar Chakrabarty, Adv.
For respondent/State	: Mr. Ashutosh Pandey, PL.

Hon'ble Shri Sharad Kumar Gupta, Judge
JUDGMENT ON BOARD

1-4-2019

1. In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 20-6-2008 passed by Addl. Sessions Judge, Mungeli, Distt. Bilaspur (CG) in Sessions trial No. 27/2007 whereby and whereunder he convicted the appellant as under:-

Offence u/S.	RI for	Fine Rs.	in default of payment of fine
307, IPC	7 Years	1,000/-	SI for 6 months

2. In brief the prosecution story is that at the time of alleged incident complainant Umesh Upadhyay was 9 years old and resident of Mungeli. On 2-6-2007 at about 9 pm at Kalimai Ward, Mungeli, appellant caused several injury on the head of complainant Umesh Upadhyay by steel jug. After completion of investigation, a charge sheet was filed against him. The trial Court framed the charge against him under Section 307 of the Indian Penal Code (in brevity 'IPC'). After completion of trial, trial Court convicted and sentenced him as aforesaid.

3. Being aggrieved the appellant has preferred this criminal appeal.

4. Counsel for the appellant argued that Trial Court has not appreciated the evidence in proper perspective. Thus, the conviction and sentence of the appellant are bad in eyes of law. Hence, appellant may be acquitted of the aforesaid charge.

5. Counsel for the State argued that the conviction and sentence of the appellant are based on clinching evidence. The conviction and sentence of the appellant do not call for any interference by this Court.

6. As per the MLC report Ex. P-17, P.W. 10 Dr. Sudeep Yarkas had found multiple lacerated wounds on the scalp of the complainant, he opined that injuries were caused by hard and blunt object and grievous in nature.

7. There is no such evidence on record on the strength of which it can be said that Ex. P-17 is not believable, thus this Court believed on Ex. P-17.

8. As per the query report Ex. P-18., P.W. 10 Dr. Sudeep Yarkas opined that if the complainant could not have been treated in time, he could have died.

9. There is no such evidence on record on the strength of which it can be said that Ex. P-18 is not believable thus this Court believed on Ex. P-18.

10. As per the CT scan report Ex. P-7 given P.W. 5 Dr. Jorge M. Khakha, there was fracture at right parietal bone and right temporal bone of complainant with hemorrhagic contusions with mild cerebral edema.

11. There is no such evidence on record on the strength of which it can be said that alleged plate Ex. P-6 and Ex. P-7 are not believable thus this Court believed on Ex. P-6 and Ex. P-7.

12. P.W. 2 Virendra says in para 1 of his statement given on oath that his son had told him that appellant had caused injury on his head.

13. P.W. 3 Umesh says in para 1 of his statement given on oath that appellant had caused injury on his head by jug.

14. As per the Dehati Nalishi Ex. P-2 appellant had caused

injuries on the head of complainant by Jug.

15. There is no such evidence on record on the strength of which it can be said that aforesaid statements of P.W. 2 Virendra, P.W. 3 Umesh are not simple, not natural and not normal.

16. Looking to the aforesaid facts and circumstances, this Court finds that prosecution has succeeded to prove the charge punishable under Section 307, IPC against the appellant.

17. Thus, this court finds that trial Court has not committed any illegality in convicting and sentencing the appellant as aforesaid. Hence, the appeal deserves to be dismissed. The appeal is accordingly dismissed. The conviction and sentence of the appellant under Section 307, IPC are hereby affirmed.

18. As per the report of the office of the Registry, the appellant has undergone the entire jail sentence. Thus, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge