

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 937 of 2003**

- Kulwant Rajwade S/o Dasai Ram aged about 45 year, Occ.- Service R/o Latori, P/s Lakhanpur, Distt.- Sarguja, (C.G.).

---- Appellant

Versus

- State of Chhattisgarh, Through- D.M. Ambikpur.

---- Respondent

For Appellant	: Shri Vivek Pandey, Advocate.
For Respondent/State	: Shri Vikash Shrivastava, Panel Lawyer

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****24/10/2019**

This appeal arises out of the judgment of conviction and order of sentence dated 07.08.2003, passed by the Special Judge, Special Court, Sarguja, Ambikapur (C.G.) in Special Case No.83/2002, convicting the accused/appellant under Section 323 of IPC and sentencing him to undergo RI for two days and pay a fine of Rs. 250/- with default stipulation.

02. Brief facts of the case are that on 24.06.2002, complainant-Ramphal lodged a report before P.S. A.J. K. Ambikapur, that prior to the incident, the son of complainant was going on his bicycle to village-Korja for watching *gairva* with one Ravishankar, near the house of Raghvendra the *chimta* of cycle was broken down due to which his son- Bhola and Ravishankar fell down and sustained injuries, when

Bhola(son of complainant) demanded money for his treatment from Ravishanker, there was quarrel between them and at that time when the complainant intervened, the present appellant assaulted the complainant with club due to which he sustained injuries on his right elbow and blood started oozing from there.

03 After investigation charge-sheet under Sections 294, 323 506 of IPC and 3 (1) (x) of the SC ST Act was filed against the accused/appellant. After filing of chargsheet, the trial Judge framed charges against the accused under Sections 323, 294 & 506 of the Indian Penal Code & Section 3 (1) (x) of the SC ST Act.

04. So as to hold the accused/appellant guilty, the prosecution examined as many as 9 witnesses namely- Ramphal (PW01), Bholaram (PW02), Smt. Ratanmaniya (PW03), Rajkumar Kashyap (PW04), Dhansai (PW05), Ramdev (PW06), Subhash Das (PW07), Dr. V. R. Singh (PW08) and B. R. Singh (PW09). Statement of the accused was also recorded under Section 313 of Cr.P.C. in which he denied the circumstances appearing against him in the prosecution case, pleaded innocence and false implication.

05. The trial Court after hearing counsel for the respective parties and considering the material available on record, by the impugned judgment convicted and sentenced the appellant as mentioned in para-1 of this judgment.

06. Learned counsel for the appellants submits that the appellant was wrongly convicted by the trial Court. He also submits that in this case no independent eyewitness has supported the prosecution case. He also submits that the injuries found on the body of the complainant are

not supported by the medical report, therefore it is prayed that the appellant may be acquitted from the charge leveled against him.

07. On the other hand, supporting the impugned judgment it has been argued by the State counsel that conviction of the appellant is based on proper appreciation of the evidence and as such, there is no scope for interference in the judgment impugned.

08. Heard counsel for the respective parties and perused the material on record.

09. Ramphal (PW-1) has stated in paragraph 2 to 4 of his statement that when the accused- Kulwant Rajwade quarreled with Bholaram, he was trying to separate them and intervened to pacify the dispute and at that time Kulwant assaulted him (complainant) by club, hands & fist.

10. Bholaram (PW02) & Smt. Ratanmaniya (PW03) both have also supported the statement of Ramphal (PW01) and stated that when the complainant was trying to pacify the dispute the present accused assaulted the complainant. The FIR (Ex. P/1) lodged by the complainant against the Kulwant & Ravishankar.

11. Dr. V. R. Singh (PW08) conducted the MLC (Ex. P/6) and he found one abrasion size 1/2x 1/2cm on the right elbow and the injured complained about the chest pain. He also opined that the injuries can be caused by hard & blunt object.

12. Looking to the injuries sustained by the complainant as per his medical report (Ex.P/6), the evidence of the eyewitnesses including the complainant Ramphal (PW-1) this Court is of the opinion that the trial Court was absolutely justified in convicting the appellant under Section 323 of IPC and awarding sentence as mentioned in para one of this

judgment there is no substance in the appeal. Accordingly, the appeal preferred by the appellant being without any substance is liable to be dismissed and is, accordingly, dismissed. It is reported that accused/appellant has already completed his jail sentence as per order dated 07.08.2003.

Sd/-

(Gautam Chourdiya)

Judge