

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 10-1-2019****Pronounced on 11-1-2019****CRIMINAL APPEAL No. 758/2008**

(Arising out of judgment of conviction and order of sentence dated 14-8-2008 passed by Additional Sessions Judge, Pendraroad, Distt. Bilaspur in ST No. 18/2008)

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Dashrath S/o. Maiku, aged about 25 years, Cast Bharia, R/o. Village Sadhwani, Thana Gaurella, Distt. Bilaspur (CG)

---Appellant**-VERSUS-**

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

---Respondent

For appellant	: Shri Anil Tripathi, Adv.
For respondent/State	: Shri I. Lakra, Dy. Govt. Adv.

Hon'ble Shri Sharad Kumar Gupta, Judge**C.A.V. JUDGMENT**

1. In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 14-8-2008 passed by Additional Sessions Judge, Pendraroad, Distt. Bilaspur in ST No. 18/2008 whereby and whereunder he convicted and sentenced the appellant as under :-

Offence u/S.	RI for	Fine Rs.	RI in default of payment of fine
307, IPC	7 Years	200/-	2 months

2. In brief the prosecution story is that on 1-10-2008 at about 7.30 pm at village Sadhpani, on account of previous enmity appellant caused injuries on the abdomen of complainant Dukhram by

kitchen knife. After completion of investigation, a charge sheet was filed against him. The trial Court framed the charge against the appellant under Section 307 of the Indian Penal Code (in brevity 'IPC'). After completion of trial, trial Court convicted and sentenced the appellant as aforesaid.

3. Counsel for the appellant Shri Anil Tripathi argued that Trial Court has not appreciated the evidence in proper perspective. Thus, the conviction and sentences of the appellant are bad in eyes of law. Hence, appellant may be acquitted of the aforesaid charge.
4. Counsel for the State argued that the conviction and sentences of the appellant are based on clinching evidence. The conviction and sentence of the appellant do not call for any interference by this Court.
5. As per alleged MLC report Ex. P-10, P.W. 7 Dr. N.S. Paikra had examined said complainant and found following injuries on his body :
 - (1) A stab wound present on the below and left side of umbilical region size about 3 cm x 1 cm x 1 cm, diffuse, swelling and tenderness with clotted blood present;
 - (2) A linear abrasion present on the left lumber region size about 4 cm;
 - (3) An incised wound present on the left iliac region size about 2 cm x 1 cm x .5 cm active bleeding present;
 - (4) An incised wound present on the right mid lumber region size about 3 cm x .5 cm x .5 cm.
 - (5) An incised wound present on lower umbilical region size about 6 cm x .3 cm;
 - (6) Linear abrasion present below the umbilical size about 2 cm.
6. As per Ex. P-10, P.W. 7 Dr. N.S. Paikra opined that said injuries are caused by hard blunt and pointed object. Injuries No. 2 and 6 were simple in nature. To ascertain the nature of injuries No. 1, 3, 4 and 5 he had advised for x-ray and ultra sonography.
7. There is no evidence on record on the strength of which it can be said that Ex. P-10 is not believable. Thus this Court believes on

Ex. P-10.

8. As per the alleged query report Ex. P-11, P.W. 7 Dr. N.S. Paikra had opined that if said complainant would not have been treated then he might have died.
9. There is no evidence on record on the strength of which it can be said that Ex. P-11 is not believable. Thus this Court believes on Ex. P-11.
10. As per the alleged memorandum Ex. P-5, appellant had disclosed to P.W. 8 S.L. Soni, A.S.I., that he had concealed one knife near the stove in the room of his house and ready to get it recovered.
11. As per the alleged seizure Ex. P-6, P.W. 8 S.L. Soni had seized one blood like stained knife from appellant.
12. There is no evidence on record on the strength of which it can be said that Ex. P-5 in that reference, Ex. P-6 are not believable. Thus this Court believes on Ex. P-5 in that reference and Ex. P-6.
13. As per the alleged R.F.S.L. report Ex. P-15 blood was found on a knife marked as article D.
14. There is no evidence on record on the strength of which it can be said that Ex. P-15 is not believable. Thus this Court believes on Ex. P-15.
15. P.W. 2 Dukhiram says in para 2 of his statement given on oath that appellant had caused injury on his abdomen by knife.
16. P.W. 3 Jamunibai says in para 2 of her statement given on oath that said complainant had told that appellant had caused injuries by knife.
17. In the alleged FIR Ex. P-1 it has been mentioned that appellant had caused the injury on the abdomen of the said complainant by kitchen knife on account of previous enmity.
18. There is no such evidence in record on the strength of which it can be said that aforesaid statements of P.W. 2 Dukhiram, P.W. 3 Jamunibai, are not natural, not normal, not simple. Thus this Court believes on aforesaid statements of P.W. 2 Dukhiram and P.W. 3 Jamunibai.
19. Looking to the aforesaid facts and circumstances, concerned

admitted facts, this Court finds that prosecution has succeeded to prove the charge punishable under Sections 307 of the IPC against the appellant beyond reasonable doubt.

20. 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 are hereby affirmed.
21. As per the report received from the office of the Jail Superintendent, Central Jail, Bilaspur dated 9-12-2018, the appellant has been released on 18-9-2011 after getting the benefit of remission extended to him. Thus, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge