

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 318 of 2008

- Mahesh Kumar, S/o Shri Tijau Ram Sahu, aged about 34 years, R/o Behind of Shriram Rice Mill, Gadadesh, Police Station Utai, District-Durg, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh, Through: The Police Station Utai, District-Durg, Chhattisgarh.

---- Respondent

For the Appellant : Mr. Praveen Dhurandhar, Advocate.

For the State/Respondent : Mr. Lav Sharma, Panel Lawyer.

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

30/01/2019

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 29.2.2008, passed by the 9th Addl. Sessions Judge(FTC), Durg, Chhattisgarh, in S.T. No.121/2007, convicting the accused/appellant under Section 307 of the Indian Penal Code(in short 'IPC'), and sentencing him to undergo RI for 7 years with fine of Rs.1000/- in default of payment of fine to undergo additional RI for 3 months.
2. The prosecution case, in brief, is this that on 28.2.2007 at about 11

am, victim Basanti Bai PW-1 was wetting the wall. The appellant, who is relative and brother-in-law of the victim came on the spot and quarreled with the victim saying that the wall is getting damaged and thereafter he assaulted Basanti Bai PW-1 with an axe 5 to 6 times causing injuries on her head, neck and face. FIR ExP-1 was lodged on that basis, the investigation was carried out.

3. On completion of investigation, the charge sheet has been filed before the concerned Court against this appellant. Charges under Sections 307 of IPC was 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 15 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. It is also submitted that the appellant has been released from jail after completion of sentence of imprisonment, hence, only to restore of

prestige of the 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 Section 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.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha