

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 11-1-2019****Pronounced on 16-1-2019****CRIMINAL APPEAL No. 507/2009**

(Arising out of judgment of conviction and order of sentence dated 30-5-2009 passed by Addl. Sessions Judge, Dhamtari, CG in Sessions trial No. 62/2008)

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Mahangu Ram Kamar @ Mangu Ram, S/o. Ram Prasad Kamar, aged about 25 years, R/o. Chattan Para, P.S. Mainpur, Distt. Raipur (CG)

---Appellant**-VERSUS-**

State of Chhattisgarh, through PS Nagri, Distt. Dhamtari (CG)

---Respondent

For appellant	: Mr. Hanuman Prasad Agrawal, Adv.
For respondent/State	: Mr. Vinod Tekam, Panel Lawyer.

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 30-5-2009 passed by Addl. Sessions Judge, Dhamtari, CG in Sessions trial No. 62/2008 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
304-I, IPC	10 Years	100/-	10 days

2. In brief the prosecution story is that deceased Shobhitram Yadav is the resident of village Bhaisamuda. On 30-6-2008 at about 12 pm, he had gone to village Semardhap by bicycle. He did not

return back. His son P.W. 1 Dilchand Rawat searched him. The dead body of the deceased was found beside the nallah in the forest of Matiabahar Khar. Injury was present on his head. P.W. 1 Dilchand Rawat intimated Police Station Nagri where a merger intimation was lodged. Thereafter, an FIR was lodged in police station Dhamtari. After completion of investigation, a charge sheet was filed against the appellant. The trial Court framed the charges against the appellant under Sections 302, 397 of the Indian Penal Code (in brevity 'IPC'). After completion of trial, trial Court convicted and sentenced the appellant as aforesaid, however he was acquitted of the charge punishable under Section 397 of the IPC.

3. 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.
4. 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.
5. As per the alleged post mortem report Ex. P-26, P.W. 20 Dr. D.R. Thakur had conducted the autopsy and found that one lacerated wound was present on left parietal region, left parietal bone was fractured. He opined that mode of death was coma due to head injury caused by hard and blunt object.
6. There is no such evidence on record on the strength of which it can be said that Ex. P-26 is not believable, thus this Court

believes on Ex. P-26.

7. P.W. 11 Sukhiyabai and P.W. 12 Khileshwari say in para 1 of their statements given on oath that in the evening appellant and deceased had come in their house, thereafter they went towards Bhaisamuda.
8. P.W. 3 Dukaluram Lohar, P.W. 4 Khijanlal Dhruv say in para 3 of their statements given on oath that Sukhiyabai had told that appellant and deceased had come in her house, thereafter they proceeded towards Bhaisamuda.
9. P.W. 5 Rohit Kumar Sen in para 2 of his statement given on oath says that P.W. 11 Sukhiyabai had told that the appellant and the deceased had proceeded towards village Bhaisamuda.
10. P.W. 8 Fatte Singh says in para 3 of his statement given on oath that this is true that appellant and one Ramdayal were in company of the deceased.
11. P.W. 7 Ishwarlal Yadav says in para 1 of his statement given on oath that Fatte Singh had told that in the evening he had seen deceased along with appellant roaming.
12. P.W. 1 Dilchand Rawat says in para 6 of his statement given on oath that the appellant had enmity with the deceased on account of allegedly not giving some paddy as wages.
13. There is no such evidence on record on the strength of which it can be said that aforesaid statements of aforesaid witnesses are not natural, not normal and not simple.
14. Looking to the aforesaid facts and circumstances, this Court finds that prosecution has succeeded to prove the charge punishable under Sections 304-I, IPC against the appellant.

15. 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 304-I, IPC are hereby affirmed.
16. As per the report received from the office of Jail Superintendent, Central Jail, Raipur dated 7-12-2018, the appellant has been released on 18-12-2013 after getting the benefit of remission extended to him. He had deposited the fine amount in jail. Thus, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge