

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1048 of 2013**

- Rubendra Kumar Baghel, S/o Kiran Kumar, aged about 20 Years, R/o Talabpar, Shitala Mandir Gali, Mahima Sagar Ward Dhamtari, P.S. Dhamtari, Civil & Rev. Distt. Dhamtari, Chhattisgarh.

---- Appellant**Versus**

- State of C.G., through P.S. Dhamtari, Civil & Revenue District-Dhamtari, Chhattisgarh.

---- Respondent

For the Appellant : Mr. K.K. Dewangan, Advocate.

For the State/Respondent : Mr. Adil Minhaj, PL.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on board****07/02/2019**

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 3.9.2013, passed by Additional Sessions Judge(FTC), Dhamtari, Chhattisgarh, in Sessions Trial No.17/2013, convicting the accused/appellant under Sections 294 & 304(Part-II) of Indian Penal Code (for short 'IPC') and sentencing him to undergo RI for 3 months & RI for 7 years with fine of Rs.10000/- in default of fine amount further R.I. for 6 months.
2. The prosecution case, in brief, is this that on 14.2.2013 at about 11.30 pm the appellant abused the deceased Murharam with obscene words and then after threatening him, he assaulted him with

hands and fists causing injuries on his head and ears. Gayatri PW-4, Ku. Hema PW-5, Virendra PW-6 & Saroj Bai PW-8 were present on the spot, who have witnessed this incident and have also intervened to help out the deceased. Kachra Bai PW-2 lodged FIR ExP-2, on that basis initial offence under Sections 294, 323 & 506 were registered against the appellant. The deceased died during the course of treatment on 15.2.2013, thereafter, the offence under Section 302 of IPC was also added and the case was investigated.

3. On completion of investigation, the charge sheet has been filed before the concerned Court. Charges under Sections 294, 506-B, 302 of IPC were framed against the appellant, who abjured his guilt and sought trial. Appellant was examined under Section 313 of CrPC in which he denied all the incriminating evidence appearing against him, pleaded innocence and false implication. One witness was examined by appellant in his defence. On completion of trial the appellant stands convicted and sentenced as aforementioned.
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. Hence, the conviction of appellant under Sections 294 & 304(Part-II) of IPC is bad in law and fit to be set aside.

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 Sections 294 & 304(Part-II) of the 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