

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1206 of 2013**

Rakesh Sahu S/o Shri Komal Lal Sahu, aged about 29 years R/o Mathpurena,
Post Office- Raipur, Police Station Tikrapara, Raipur, District Raipur (C.G.).

----Appellant

Versus

State of Chhattisgarh through the District Magistrate, Raipur, District Raipur
(C.G.)

---- Respondent

For Appellant	:	Mr. Shivendu Pandaya, Advocate
For Respondent	:	Ms. Sriya Mishra, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

09/07/2019

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 18/10/2013 passed in Special Sessions Trial No. 2/2009 by the learned Special Judge Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 District Raipur (C.G.) convicting the Appellant under Sections 147 and 323/149 (3 times) of the IPC and sentenced to Till Rising of the Court and to pay fine of Rs. 500/- for each offence with default stipulation.
2. Facts of the case are that on 29/08/2008 Complainant Hirendra Nagrachi (PW1) lodged a written report in the police station alleging therein that on the same day his cousin namely Roshan had gone to the temple for worship. Co-accused Nirmala Bai assaulted him there then the Complainant brought his cousin from there at his home. After some time, co-accused Subhan Sahu came to his house and threatened them.

It was further alleged that at about 11-11:30 pm, the Appellant along with other co-accused persons again came there and entered into the house of the Complainant. They were asking where is Roshan. When Kamla Bai and Raju Sahu tried to intervene, they assaulted them. On the basis of said report, offence has been registered. After completion of investigation, a charge-sheet under Section 147, 294, 323, 452 & 506 (b) of the IPC and Section 3 (1) (10) of the SC/ST (Prevention of Atrocities) Act, 1989 has been submitted against the Appellant and other co-accused persons. The trial Court framed the charges under Sections 147, 294, 323, 452 & 506 (b) of the IPC and Section 3 (1) (10) of the SC/ST (Prevention of Atrocities) Act, 1989. To prove the guilt of the Appellant, the prosecution has examined as many as 11 witnesses. No defence witness has been examined.

3. After trial, the trial Court has acquitted all the accused persons from the charge framed under Sections 294/149, 506 (B)/149 of the IPC and Sections 3 (1) (10) of the SC/ST (Prevention of Atrocities) Act. However, the Appellant has been convicted under Section 147 and 323/149 (3 times) of the IPC and sentenced as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Counsel for the Appellant submits that the judgment of the trial Court is based on surmises and conjecture. The trial Court has utterly failed to appreciate the evidence in proper and its right perspective. He further submits that statements of Hirendra Nagrachi and Kamla are not corroborated by other prosecution witnesses. There is no evidence against the Appellant inspite of that he has been convicted.

5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Hirendra (PW1) in his Court statement has categorically stated against the Appellant and other accused persons. Raju Sahu (PW2) and Kamla Bai (PW3) and Tejram Sahu (PW4) have also corroborated the statement of Hirendra (PW1). Moreover, from the statement of Dr. Gopal Kela (PW7) and the MLC report of Roshan and Hirendra, it is also established that they sustained injuries on their bodies. Thus, from the evidence adduced by the parties, it is well established that the Appellant has committed the offence under the aforementioned sections.
8. The trial Court has elaborately discussed the entire evidence and rightly convicted the Appellant for the offence punishable under Section 147 and 323/149 (3 times) of the IPC. After reassessment of entire evidence, this Court has no reason to record any contrary finding.
9. Consequently, the Appeal has no merit and the same is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge