

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 835 of 2013

- Sharma Rathiya S/o Mulukram Rathiya Aged About 40 Years R/o Village Bagudega, Ps Lailunga, Distt. Raigarh C.G.

---- Appellant

Versus

- State Of Chhattisgarh Through Officer In Charge Of The Ps Lailunga, Distt. Raigarh C.G.

---- Respondent

For Appellant	:	None.
For Respondent	:	Mr. Amit Singh, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

26/07/2019

1. By the impugned judgment dated 16/05/2013 passed in S.T. No. 167/2011 by the learned 2nd Additional Session's Judge, Raigarh, District Raigarh (C.G.), the Appellant has been convicted under Section 307 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 8 years and to pay fine of Rs. 3,000/- with default stipulation.
2. Facts of the case are that on 13.07.2011, complainant/victim of the case Budhram Rathiya (PW-6) lodged an FIR (Ex. P-1) at police station Lailunga alleging therein that on 04.07.2011, he went to the house of Bhagat Ram Rathiya to inquire about his

son-in-law Krishna Rathiya, at that time he was sitting along with Govind Rathiya around 11:30 PM, the accused came with axe and assaulted him with it due to that the victim became unconscious and fell down on the spot. The incident was witnessed by Govind Rathiya. Then the victim got immediately admitted in the nearest hospital at Lailunga. On the basis of said background initially offence under Section 324 & 325 of the IPC has been registered. Later on, on the basis of material collected by the prosecution, after investigation, charge-sheet under Section 307 of the IPC has been registered. Trial Court has framed the charges under Section 307 of the IPC. To prove the guilt of the Appellant, the prosecution has examined as many as 12 witnesses. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C. was recorded, wherein he has pleaded their innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Bilaspur would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released on 15.10.2016.
5. Since no one appears for the Appellants today, I decide this

appeal on merits.

6. I have heard Learned Counsel appearing for the State and perused the record to assess the correctness of the impugned judgment of conviction.
7. That, in the Court statement of Budhram Rathiya (PW-6), he has stated that on the date of incident his son-in-law Krishna Rathiya was missing, he went to the house of Bhagat Ram Rathiya along with Govind Rathiya. It has been further deposed by him that thereafter he along with Govind Rathiya were sitting in front of the house of Govind Rathiya. Suddenly, the Appellant came there laced with one axe and assaulted the victim/complainant due to which he sustained injuries on his head and back side of his body. With the above statement of PW-2 Budhram Rathiya has duly corroborated by PW-1 Niranjan Rathiya, PW-3 Sukhram, PW-4 Bhagat Ram and PW-9 Govind Rathiya. Injured Budhram was medically examined by PW-6 Yogeshwar Singh Sarathiya. As per statements and MLC report of the injured Budhram i.e. Ex.P-2, total two injuries were found in the body of injured. He got grievous injuries 7X3X9 cm. on his front parietal region caused by hard and sharp weapon. After examination, this witness was advised for ex-ray. On ex-ray, PW-6 found left ribs 2, 3, 4, 5 and 6 were broken. This witness further opined that injuries are sufficient to caused death if the injured not given medical aid immediately.

8. From the above evidence available on record, it is clear that at the time of incident, complainant/victim Budhram had been assaulted by the present Appellant with the help of axe due to which he sustained grievous injuries on his head as well as on his chest and ribs as opined by the Dr. PW-6. Nature of the injuries is grievous and it may caused death. There is sufficient evidence available on record against the Appellant. Thus, the learned trial Court has rightly convicted the Appellant.
9. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

Sd/-

(Arvind Singh Chandel)
Judge