

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1179 of 2013**

- Jayram Kishan S/o Sakham, Aged About 25 Years, R/o. Village Chhuhpali, Police Station Chakradhar Nagar, Civil and Revenue District Raigarh C.G., Chhattisgarh

---- Appellant**Versus**

- State of Chhattisgarh Through – Police of Police Station - Chakradhar Nagar, District Raigarh C.G., Chhattisgarh

---- Respondent

For Appellant : Mr. Vinod Kumar Sharma, Advocate.

For Respondent/State: Ms. Madhunisha Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****17/01/2019**

1. This appeal has been preferred against judgment dated 06-04-2013 passed in Session Trial No.116/2012 by the Second Additional Sessions Judge, Raigarh, District Raigarh, C.G. convicting the appellant under Section 451, 354 and 304-II of the IPC and sentencing him with R.I. for 1 year, R.I. for 2 years and R.I. for 5 years along with fine Rs.1000/-, Rs.2000/- and Rs.3000/- with default stipulations and direction that all the jail sentences shall run concurrently.
2. The prosecution case, in brief, is this, that, on 27-06-2012 between 6 to 7 p.m. in the evening this appellant committed house-trespass in the house of the deceased where she was alone and outraged her modesty, by using force this appellant pushed the deceased because of which she fell down on a burning kerosene lamp and her clothes caught fire. Deceased Janhavi was admitted for treatment of burn injuries in the hospital at Raigarh, where she recorded the

dying declaration, Ex.-P/10 before the Executive Magistrate Smt. Avanti Gupta (PW-8) in which she made allegation against this appellant regarding his act because of which her clothes got fire and she got burn injuries. The deceased expired on 01-07-2012 on account of the same burn injuries. The morgue intimation was made and thereafter the FIR was lodged against the appellant registering the offences against him. The case was investigated and charge sheet was filed against this appellant.

3. The appellant was charged with offences under Section 452, 354, 304 Part-2 of the IPC, to which he denied and prayed for trial.
4. After completion of the prosecution evidence, the appellant was examined under Section 313 of the Cr.P.C., in which the appellant denied all the incriminating evidence against him, pleaded innocence and false implication. Two witnesses were examined in defence.
5. After completion of the trial, the impugned judgment has been passed wherein this appellant has been convicted and sentenced as aforementioned.
6. It is submitted by learned counsel for the appellant that the conviction of the appellant is bad in law and not sustainable as it is not supported by the evidence of prosecution witnesses beyond reasonable doubt. Death of the deceased was purely accidental, for which this appellant cannot be held responsible and the conviction against him is based only on the basis of dying declaration of the deceased as no eye-witness were present on the spot, hence, it could not have been basis of conviction against the appellant.

Therefore, this appellant was entitled for benefit of doubt in this case. However, it is submitted that the appellant has been released from jail after completion of the sentence of imprisonment imposed upon him including the remission granted to him by the State, even then it is prayed that to restore the prestige of the appellant this appeal may be allowed.

7. Learned counsel for the State/respondent opposes the grounds raised in the appeal and the submission made in this regard and submits that the prosecution has proved its case beyond reasonable doubt. Hence, there is no reason for interference in the findings recorded by the trial Court. Therefore, the appeal may be dismissed.
8. Heard learned counsel for the parties and perused the record of the trial Court.
9. Perused the entire evidence present in the record of the trial Court and after closely scrutinizing the same, I am of this opinion that the trial Court has not committed any error in convicting the appellant for the offences as aforesaid and in sentencing him accordingly. Therefore, this appeal is without any substance, hence, the same is accordingly dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge