

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 800 of 2013**

Bihanu Lohar S/o Late Devcharan Loha, Aged about 48 years R/o Village Gailunga, P.S. Narayanpur, Civil & Distt. Jashpur (C.G.).

----Appellant

Versus

State of Chhattisgarh through P.S. Outpost Naraynpur, Civil & Revenue, Distt. Jashpur (C.G.).

---- Respondent

For Appellant	:	Mr. Suresh Tandon, Advocate
For Respondent	:	Mrs. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

09/08/2019

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 25/07/2013 passed in Sessions Case No. 93/2012 by the Additional Sessions Judge, Kunkuri, Distt. Jashpur (C.G.) convicting the Appellant under Section 304 Part-II of the Indian Penal Code and sentenced him to undergo RI for 7 years and to pay fine of Rs. 5000/- with default stipulation.
2. As per prosecution story, Deceased Sunita was the wife of the Appellant. On 10/08/2012, Kotwar of the village namely Dotanus Lakra had seen dead body of the Deceased in the house of the Appellant. He also seen various injuries on the various parts of the dead body of the Deceased. He intimated the matter to the police station and the Police has registered the *Merg.* Postmortem was conducted by Dr. C.D Bakhala (PW3). His report is Ex.P-6. He found grievous injuries on the head of

the Deceased and opined that the death was homicidal in nature. Thereafter, offence has been registered. After investigation, a charge-sheet has been filed against the Appellant. Trial Court framed the charges. As many as 11 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C was recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that out of total jail sentence of 7 years, the Appellant is in custody since 11/08/2012 and completed almost entire jail sentence. He has no criminal antecedent, therefore, he prays that the sentence awarded to the Appellant may be undergone.
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. Considering the above facts and circumstances, particularly that out of total jail sentence of 7 years, the Appellant is in jail since 11/08/2012 and there is no criminal antecedent of the Appellant, I am of the view that the ends of justice would be met if, while upholding the conviction imposed

upon the Appellant, the jail sentence awarded to him is reduced to the period already undergone by him

8. Consequently, the appeal is partly allowed. The conviction imposed upon the Appellant under the aforementioned Section is upheld, however, the jail sentence awarded to him is reduced to the period already undergone by him. The fine sentence is affirmed.
9. It is reported that the Appellant is in jail. He be released forthwith, if not required in any other case.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge