

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 751 of 2015

- Teejram Singh S/o Pransai Gond Aged About 45 Years R/o Village - Jalke, Jamtipara, Korbi, Pasaan, District Korba, Chhattisgarh.

---- Appellant

Versus

- The State of Chhattisgarh Through Station House Officer, Police Station Passan, District Korba, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Ajay Mishra, Advocate
For Respondent	:	Mr. Amit Singh, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

25/07/2019

1. By the impugned judgment dated 04/02/2015 passed in S.T. No. 110/2013 by the Additional Sessions Judge, Katghora, District Korba, the Appellant has been convicted under Section 307 of I.P.C., Section 25(1)(B)(B) and 27(1) of Arms Act and sentenced to undergo rigorous imprisonment for 07 years and to pay fine of Rs. 500/-, rigorous imprisonment for 01 year and to pay fine of Rs. 500/- and rigorous imprisonment for 03 years and to pay fine of Rs. 500/- respectively, with default stipulation. All sentences have been directed to run concurrently.
2. As per the prosecution story, on 21/08/2013, there was a '*chhatti*'

function in the house of one Dhan Singh. Complainant of the case i.e. Bhagmaniya Bai (P.W.-1) had also went there to attend the said function. Allegedly, at around 12:00 am, when Bhagmaniya Bai came out from the house of Dhan Singh for washing her hand, accused/appellant came there, restrained her and abused her with filthy language and threatened her for dire consequences, whereupon she tried to flee from that place. It is further alleged that thereafter, accused/appellant caused injury on her left hand and back side of her neck by '*katta*'. The said incident has been witnessed by Chhotelal (P.W.- 3) and Dhaniram (P.W.-5). Thereafter, F.I.R. i.e. Ex. P-6 has been lodged by injured Bhagmaniya Bai (P.W.-1) herself. Injured Bhagmaniya Bai was medically examined vide Ex. P-16 by Dr. Namita Walter (P.W.-9). During course of investigation, one heavy and sharp iron weapon '*katta*' has been seized from the possession of present appellant. Thereafter, statement of witnesses under Section 161 of the Cr.P.C has also been recorded. After completion of the investigation, a charge-sheet has been filed. Trial Court framed the charges under Section 341, 294, 506 Part-II and 307 of I.P.C. and under Section 25(1) (B)(B), 27(1) of Arms Act. To prove the guilt of the Appellant, the prosecution has examined as many as 10 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 his innocence and false implication in the matter.

3. After trial, the trial Court has acquitted the appellant for the offence punishable under Sections 341, 294, 506 Part-II of I.P.C. but convicted the appellant under Section 307 of I.P.C. and Sections 25(1) (B)(B) & 27(1) of Arms Act and sentenced as mentioned in paragraph 1 of this

judgment. Hence, this appeal.

4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Bilaspur, (C.G.) dated 22/07/2019 would mention that the Appellant has undergone the entire jail sentence imposed upon him by the trial Court and already released on 06/02/2019.
5. Learned Counsel appearing on behalf of the appellant submits that from the evidence available, it is clear that incident took place due to grave and sudden provocation and the appellant had no motive or intension to kill the injured Bhagmaniya. Therefore, the conviction of appellant under Section 307 of I.P.C. is not proper. He further submits that learned trial Court has failed to appreciate that there is no such evidence to show that the injury caused to the injured Bhagmaniya Bai was capable to cause her death.
6. I have heard learned Counsels appearing for the parties and perused the record of trial Court.
7. Injured Bhagmania Bai (P.W.-1) in her statement has categorically stated that at the time of incident, she was attending the '*chhatti*' function, at that time accused/appellant assaulted her in neck with '*katta*'. When she tried to save herself with left hand, then he again assaulted her in her hand and due to that she sustained injuries on her neck and left hand. She further deposed that when she ran towards street then again accused/appellant chased her and assaulted her. The incident was witnessed by Chhotelal (P.W.- 3) who caught hold of the appellant and Dhaniram (P.W.-5) snatched the weapon from accused/appellant while he was assaulting Bhagmaniya Bai. Above

statement of Bhagmaniya Bai (P.W.-1) is duly corroborated by eye-witnesses Chhotelal (P.W.-3) and Dhaniram (P.W.-4). All above three witnesses remained firm during their cross-examination.

8. As per medical report i.e. Ex. P-16, Dr. Namita Walter (P.W.-9) who examined the injured has stated in her statement that, on being examined she found injuries on the body of injured Bhagmaniya Bai as mentioned below:

(i) Incised wound of size 3cm x 1cm x 1cm on lateral aspect of left forearm over ulnar bone.

(ii) Incised wound of size 2cm x 0.5cm x 0.5cm on the back side of neck.

As opined by Doctor (P.W.-9), said injuries were caused with sharp object. It was further opined by Doctor that injury no. (i) could result into the death of injured as there was excessive bleeding from said injury and she was going into the state of shock and injury no. (ii) could also result into her death as there was continuous bleeding from the said injury of her neck. From the above, it is also clear that the injuries sustained by injured Bhagmaniya Bai could bring her life in danger. Injuries were caused by sharp object i.e. '*katta*'.

9. From the statement of injured and other eye-witnesses, it is clear that assault was committed for more than one attempt. From the above, it is also clear that appellant has assaulted the injured with intent to commit her murder. Thus, the finding of trial Court is in accordance with evidence available on record and has rightly convicted the appellant.

10. Consequently, the appeal has no merit and the same is liable to be
and is hereby dismissed.

**Sd/-
(Arvind Singh Chandel)
Judge**