

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Appeal No. 905 of 2015**

Chandrapal @ Chumman Tandan S/o Chandra Prakash Tandan, aged about 45 years, R/o Burhapara Purohit Bada, Swarna Tara Complex, Raipur, presently Chandraprakash Bartan Bhandar, Shakti Bazar Raipur, PS City Kotwali,

**---- Appellant**

**Versus**

State of Chhatisgarh, Through Station House Officer, PS City Kotwali, Raipur, District Raipur (C.G.)

**---- Respondent**

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|----------------|---|-----------------------------|
| For Appellant  | : | Mr. Sumit Jhanwar, Advocate |
| For Respondent | : | Mrs. Smriti Shrivastava, PL |

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Hon'ble Shri Justice Arvind Singh Chandel

**Order on Board**

**05/07/2019**

1. This appeal has been preferred against the judgment dated 30/06/2015 passed in Sessions Trial No. 08/2015 by the Fourth Additional Sessions Judge, Raipur, whereby the Appellant has been convicted and sentenced as under:-

| <b>Conviction</b>                    | <b>Sentence</b>                                                                                       |
|--------------------------------------|-------------------------------------------------------------------------------------------------------|
| Under Section 294 of the IPC         | Fine of Rs. 500 (in default of payment of fine amount, additional RI of 15 days)                      |
| Under Section 506 Part-II of the IPC | RI for 6 months & fine of Rs. 500/- (in default of payment of fine amount, additional RI of 15 days.) |
| Under Section 307 of the IPC         | RI for 10 years and fine of Rs. 10,000/- (in default of payment of                                    |

|                                        |                                                                                                       |
|----------------------------------------|-------------------------------------------------------------------------------------------------------|
|                                        | fine amount, additional RI of 6 months).                                                              |
| Under Section 25 of the Arms Act, 1959 | RI for 5 years and fine of Rs. 500 (in default of payment of fine amount, additional RI of 15 days)   |
| Under Section 27 of the Arms Act, 1959 | RI for 3 years and fine of Rs. 500/- (in default of payment of fine amount, additional RI of 15 days) |

2. As per prosecution story, Complainant Bharat Lunawat (PW1) owned a menswear shop situated at Shakti Nagar Raipur. The Appellant also owned a shop of utensils adjacent to the shop of the Complainant. On 18/10/2014 at about 9:00 pm, a dispute arose between the Appellant and the Complainant for fixing the board of the shop. It is alleged that the Appellant abused the Complainant and threatened him to kill. Prince Jain (PW2), Nephew of the Complainant, also reached to the spot and tried to intervene. The Appellant beaten him by a sharp edged weapon (Chapad). Injured Prince Jain sustained grievous injuries on his neck. The matter was reported by the Complainant vide Ex.P-1. Injured Prince Jain was medically examined and operated by Dr. Nishant Singh (PW7). His report is Ex.P-10. He opined that Prince Jain sustained incised wound in the posterior triangle of neck and supra clavicular area on left side of 1<sup>st</sup> rib size 6cm X 2.5cm, which is caused by sharp edged object and the nature of injuries was grievous. He also opined that the injuries were dangerous to life and it was grievous in nature. During course of investigation, Investigating Officer Dilip Sahu (PW6) recorded memorandum statement of Appellant vide

Ex.P.6. On the basis of said memorandum statement, one Chapad containing blood stains was seized vide seizure memo Ex.P.7. Statements of witnesses under Section 161 of the Cr.P.C were recorded. After investigation, a charge-sheet under Section 307 of the IPC and Sections 25 & 27 of the Arms Act has been submitted. Charges were framed. To prove the guilt of the Appellant, the prosecution has examined as many as 8 witnesses. Two defence witnesses have been examined. Statement of Appellant under Section 313 of the Cr.P.C has been recorded, wherein he pleaded his innocence and false implication in the matter.

3. After trial, the learned trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this order. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that he does not want to press this revision on merits and confines his argument to the sentence part only. It is further submitted that as per MLC report and opinion of doctor, Injured Prince sustained only one injury on his neck and he was admitted in the hospital only for 3 days. He further submits that from the statement of Bharat Lunawat (PW1), there was no intention of the Appellant to kill the Injured and due to interference, the Injured sustained injuries. He further submits that out of total jail sentence of 10 years, the Appellant has already undergone about 5 years, he is facing the *lis* since 2014, there is no criminal antecedent against the Appellant, therefore, he prays that the jail sentence awarded to the Appellant may be reduced to the period already

undergone by him.

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 of the case, particularly considering that out of total jail sentence of 10 years, the Appellant has undergone about 5 years, he is facing the *lis* since 2014 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentenced awarded to him is reduced to the period already undergone by him and the fine sentence imposed under Section 307 of the IPC is enhanced to Rs. 50,000/-. Ordered accordingly. The enhanced amount of fine shall be payable within 1 month from the date of receipt of a copy of this order. In default of payment, the Appellant shall be liable to undergo RI for 1 year. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today. The fine sentence imposed under Section 307 of the IPC shall be given as compensation to the Injured under Section 357 (1) of the Cr.P.C.
8. Consequently, the revision is partly allowed to the extent indicated above.
9. It is reported that the Appellant/accused is on bail. His bail bond is not

discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.

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

Rahul