

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1415 of 2017**

Baljeet Singh S/o Bholu Singh, aged about 55 years, Caste Kanwar R/o Village Sirkotanga, Police Station Lakhanpur, District Surguja (C.G.)

---- Appellant

Versus

State of Chhattigarh Through Station House Officer, Police Station Lakhanpur, District Surguja (C.G.).

---- Respondent

For Appellant	:	Mr. Nishikant Sinha, Advocate
For Respondent	:	Mr. Amit Verma, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

26/08/2019

1. This appeal has been preferred against the judgment dated 10/08/2017 passed in Sessions Trial No. 62/2016 by the Fifth Additional Sessions Judge, Ambikapur Surguja (C.G.), whereby the Appellant has been convicted under Section 326 of the IPC and sentenced to undergo RI for 7 years and to pay fine of Rs. 1,000/- with default stipulation.
2. Facts of the case are that on 17/02/2016 at about 7 pm, the Applicant and co-accused Baljeet went to the house of Victim Omprakash (PW16) and demanded money for buying liquor, but the Victim refused to give money. Then, the Appellant and co-accused assaulted the victim by hands, fists and wooden club, due to that the Victim

sustained injuries on his head. FIR has been lodged by Ramvishal Singh vide Ex.P-11. The victim/Injured Omprakash was medically examined by Dr. P.S. Kerketta (PW14) who found two injuries on occipital region of the Victim. The size of first injury was 2X1 inch and the size of second injury was 3X2 inch. He opined for X-ray of the Victim. During course of treatment, Dr. S. N. Madariya (PW17) conducted CT- Scan of the Victim and found that the bone of right side of brain was broken and has gone inside the brain, thus it has caused internal brain injuries. His report is Ex.P-20 and Ex.P-21. During course of investigation on the basis of memorandum statement of the Applicant, one wooden club (Dhelphasa) was seized from his possession. Statement of witnesses under Section 161 of the Cr.P.C was recorded. After investigation, a charge-sheet has been submitted under Section 294, 323, 506 & 307/34 of the IPC. Trial Court framed the charges.

3. After trial, the trial Court acquitted the Appellant from the charge framed under Section 294, 506 and 323 of the IPC, and convicted him under Section 326 of the IPC instead of Section 307 of the IPC, and sentenced him 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 has undergone about 2 months 18 days during trial and after the judgment of the Appellate Court, he is in jail since

10/08/2017, thus, he has undergone about 2 years and 3 months. He has no criminal antecedent and he is facing the *lis* since 2016, 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 7 years, the Appellant has undergone about 2 years 3 months, he is facing the *lis* since 2016 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 326 of the IPC is enhanced to Rs. 25,000/-. Ordered accordingly. The enhanced amount of fine shall be payable within 2 months from the date of receipt of a copy of this order. In default of payment, the Appellant shall be liable to undergo RI for 6 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.
8. Consequently, the appeal is partly allowed to the extent indicated

above.

9. It is reported that the Appellant/accused is jail since 10/08/2017. 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

Rahul