

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 181 of 2002**

1. Shatrughan Soni S/o Ugresen Soni, aged about 20 years, R/o Santoshi Nagar, Tikrapara, Raipur (C.G.).

---- Appellant**Versus**

1. State of Chhattisgarh, through the District Magistrate Raipur.

---- Respondent

For Appellant	:	Shri Smt. Renu Kochar, Advocate.
For Respondent/State	:	Shri Vikas Shrivastava, Panel Lawyer.

Hon'ble Justice Shri Gautam Chourdiya**Judgment On Board****02/01/2020**

- 1) This appeal is filed under section 374(2) of Code of Criminal Procedure, 1973 against the judgment of conviction and order of sentence dated 19/12/2001 passed by 3rd Additional Session Judge, Raipur in Session Trial No. 161/2001; whereby the appellant Shatrughan Soni stands convicted and sentenced as under:-

Conviction	Sentence
U/s. 324 of Indian Penal Code (in short "IPC")	R.I. for 1 year and fine of Rs. 1,000/- in default of fine additional R.I. for 2 months

- 2) Case of the prosecution in brief is that on 10/03/2001 at around 03:30 PM the complainant Raghubir Sahu PW-01 and his wife PW-02 Parwati were sitting in the house of Shyamrao PW-06. When the complainant Raghubir Sahu PW-01 was returning to his house alone, on the way accused appellant met him and demanded Rs. 10/- for liquor. When the complainant refuse to give him money, the appellant threatened the complainant which was informed by the complainant to Shyamrao PW-06. After

sometimes when complainant alongwith Shyamrao PW-06 and Munna was sitting in the Chowk, the appellant came there with *Gupti* (sword stick) and with intend to kill the complainant tried to make assault on his chest. However, due to intervention by the persons present there, the appellant could not kill the complainant. At the time of incident the appellant was having *Gupti* as well as Revolver which were seized by the Police at the spot. The complainant was sent to Hospital for medical examination. In the Hospital itself Purnima Lama (S.I) PW-11 registered unnumbered Nalshi under Section 307 of IPC against the appellant and subsequently crime No. 72/2001 for the offence under Section 307 of IPC was registered against the appellant (Ex. P-1). As per Ex. P-2 blood stain shirt of complainant Raghubir Sahu PW-01 was seized. Spot Map Ex. P-3 was prepared in presence of witnesses. As per Ex. P-4 the complainant was medically examined by Dr. Waseem PW-04 who noticed incised wound on 7th inter-castle space left side of chest of size 0.5cmx1.5cm of the complainant. According to the Doctor the said injury was caused by hard and sharp object. This Doctor also examined the weapon of offence *Gupti* vide Ex. P-5 and opined that the injury sustained by the complainant can be caused by the said weapon. The seized articles i.e. *Gupti* and blood stain shirt of the complainant were sent to FSL for chemical examination however, the FSL report is not available on record. Statements of the witnesses were recorded and after completion of the investigation charge sheet was filed against the appellant/accused for offence under Section 307 of IPC and Sections 25 & 27 of Arms Act

- 3) The Trial Court framed charges against the accused/appellant under section 307 of I.P.C. and under Section 25 read with Section 3 of Arms Act. The accused/appellant denied the charges and prayed for trial.
- 4) The prosecution in support of its case examined as many as 12 witnesses namely PW-01 Raghubir Sahu (complainant), PW-02

Parvati, PW-03 Raghunandan, PW-04 Dr. A. Waseem, PW-05 Omprakash Dewangan (Patwari), PW-06 Shyamrao, PW-07 Shivnandan, PW-08 Jeevan Rao @ Munna, PW-09 Jaid Haidari, PW-10 Krishnarao Bhosle, PW-11 Purnima Lama (T.I.) and PW-12 Dr. Chandrajeet Yadav. The statement of the accused was also recorded under section 313 of Cr.P.C. in which he denied the circumstances appearing against him in the prosecution case and pleaded innocence and false implication. No defence witness was examined by the accused in his defence.

- 5) Learned Trial Court considering the material available on record by the impugned judgment convicted and sentenced the accused appellant as mentioned above in para 1 of this judgment.
- 6) Learned counsel for the appellant submits that the Trial Court has not properly appreciated the overall evidence available on record. He submits that the appellant has been falsely implicated in this case as there are certain contradictions and omissions in the statement of the prosecution witnesses. He submits that the prosecution witnesses who deposed against the appellant are interested witnesses. Even there is no FSL report on record connecting the appellant with the crime in question. Therefore, the appellant deserves to be acquitted of the charge leveled against him.
- 7) On the other hand learned counsel for the respondent/State supporting the impugned judgment submits that the Trial Court considering the overall evidence available on record has rightly convicted and sentenced the appellant by the impugned judgment which calls for no interference by this Court.
- 8) Heard counsel for the parties and perused the material available on record.
- 9) PW-01 Raghubir Sahu is the injured complainant. He has stated that on the date of incident while he was going alongwith PW-06

Shyamrao, on the way the appellant met him and demanded Rs. 10/- which was refused by him (PW-01). He further states that while he was in the house of PW-06 Shyamrao, the appellant again came there and demanded money which was refused by him and thereafter the appellant went back to his house and returned with Gupti and assaulted him on his chest at left side. He states that during this assault PW-06 Shyamrao and Munna intervened, therefore, the appellant did not repeat the assault. He states that he was thereafter sent to Medical College Hospital, Raipur where the Police inquired from him about the incident. He has proved the unnumbered Dehati Nalshi Ex. P-1. In cross-examination the defence could not elicit anything from this witness which could make his evidence untrustworthy or doubtful. The evidence of PW-01 Raghubir Sahu is also corroborated by the evidence of his wife PW-02 Parvati, PW-03 Raghunandan, PW-06 Shyamrao and PW-07 Shivnandan. There is no major contradiction or omission in the evidence of the aforesaid witnesses. Further the evidence of PW-01 Raghubir Sahu complainant is also corroborated by the prompt FIR Ex. P-1C, Spot Map Ex. P-3 as well as his medical report Ex. P-4. PW-04 Dr. A. Waseem medically examined the injured PW-01 Raghubir Sahu on 10/03/2001 vide Ex. P-4 and noticed the incised wound on 7th inter castle space left side of chest of size 0.5cmx1.5cm of the complainant. From the possession of the appellant weapon of offence Gupti was also seized by the Police and as per query report Ex. P-5 given by Dr. A. Waseem PW-04 the injury suffered by complainant could be caused by the said weapon.

- 10) Thus, considering the overall evidence available on record, ocular, documentary and medical evidence it stands proved beyond all reasonable doubt that it is the accused appellant who voluntarily caused injury to the complainant PW-01 Raghubir Sahu by a dangerous weapon i.e. *Gupti* which makes him liable for conviction under Section 324 of IPC. Being so the Trial Court was fully justified in convicting the appellant under the aforesaid

section.

- 11) In the result, the appeal being without any substance is liable to be dismissed and is, accordingly dismissed. As per report dated 03/07/2014 submitted by Jail Superintendent, Central Jail, Raipur, the appellant having deposited the fine amount and completed the jail sentence of 1 year has been released from jail on 14/08/2002. Therefore, there is no requirement of passing any order in respect of arrest, surrender etc. of the appellant.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant