

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 53 of 2000**

1. Durgawati W/o Mohilal Gupta, aged about 30 years, Resident of Sakin – Ward No. 14 Manendragarh District Sarguja, CG.
 2. Mohilal Gupta S/o Heera Lal Gupta, aged about 35 years, Resident of Sakin Ward No. 14 Manendragarh District Sarguja, CG.
- Appellants**

Versus

State of Chhattisgarh

--- Respondent

For Appellants	-	Shri Rishi Rahul Soni, Advocate.
For Respondent/State	-	Ms. Ishwani Ghritlahare, PL.

Judgment on Board by Hon'ble Smt. Vimla Singh Kapoor, J.**04.03.2020**

It is alleged that two days prior to the actual date of incident i.e. 16.07.1988 there was some quarrel between Pintu – the son of the accused/appellants herein and one Amit – the son of complainant Atama Singh (PW-1) and Krishna (PW-8) and on account of this both the parties started nurturing ill-will against each other. According to the case of prosecution, on 16.07.1988 at about 7 pm when Krishna (PW-8) was going to leave her mother Ramata Ji (PW-18) to bus stand and as soon as they reached near the house of the accused/appellants falling on the way, accused Durgawati started abusing both of them and also pushed PW-18 making her fall in the nearby drainage. Thereafter, it is alleged that accused/appellant Mohilal Gupta went inside his house, got back with a glass filled with some liquid substance and gave the same to his

daughter Shashibala which she threw at Krishna (PW-8). On hearing the cries, Anil (PW-4), Rajesh (PW-11) Rakesh (PW-12) and Shivkumar (PW-9) came there and on them also the accused/appellant Durgawati and her daughter Shashibala threw the said liquid substance. Subsequently, they all were taken to the hospital at Manendragarh where Dr. Vinod Bajpai (PW-21) medically examined them. FIR (Ex. P-1) was lodged by Atama Singh (PW-1) on the basis of which offences under Sections 307, 324, 34 IPC were registered against the accused/appellants. On the memorandum of the accused/appellant Mohilal Gupta (Ex. P-2), seizure of broken pieces of bottle and some clothes was made under Ex. P-3, Ex. P-4, Ex P-6, Ex. P-7, Ex. P-8, Ex. P-9 and Ex. P-10. After completion of investigation charge-sheet was filed against the accused/appellants under the same Sections followed by framing of charge accordingly.

2. Learned Court below by the judgment impugned dated 15.11.2000 passed in Sessions Trial No.283/1989 absolved both the accused/appellants of the charge under Section 307 but found them guilty under Section 324 IPC and sentenced each of them to undergo RI for two years with fine of Rs. 500/-, plus default stipulation.

3. Counsel for the accused/appellants submits that the judgment impugned is not based on the proper appreciation of the evidence of the witnesses and therefore, liable to be set aside. He submits that almost all the independent witnesses

are the interested ones and therefore, the conviction of the accused/appellants on their evidence cannot be sustained. He further submits that if the conviction of the accused/appellants is not going to be interfered with, the sentence of accused Durgawati at least may be reduced to the period already undergone which comes to two days. In respect of accused Mohilal Gupta a prayer has been made to waive off the jail sentence imposed on him and he may be imposed the sentence of fine only.

4. State counsel however supports the judgment impugned.

5. Having considered the evidence of injured witnesses Rajesh Kumar (PW-11), Shanti Bai (PW-10), Krishna (PW-8), Rakesh (PW-12), Anil Singh (PW-4), Shiv Kumar (PW-9) and Ramata ji (PW-18) makes it clear that on account of splashing of the liquid substance thrown by Shashibala which was handed over to her by her father (accused/appellant Mohilal Gupta), they suffered burn injuries of various percentages on several parts of their body. Dr. Vinod Bajpai (PW-21) who medically examined all the aforesaid injured witnesses has also found burn injuries - may be simple in nature, on their body which is evident from the reports marked as Ex. P-18-A, Ex. P-23-A, Ex. P-20-A, Ex. P-19-A, Ex. P-17-A, Ex. P-21-A and Ex. P-22-A. As regards the nature of said substance, this witness has not expressed any opinion and advised for its chemical examination. Though the articles seized were sent for chemical examination, the report of the same has not been produced by

the prosecution. However, the fact remains that number of persons including Krishna (PW-8) and her mother (PW-18) suffered burn injuries on account of some liquid substance thrown by Shashibala which was given to her by her father Mohilal Gupta (one of the accused/appellants herein). Evidence also shows that on account of a jolt given by accused/appellant Durgawati, PW-18 Ramata Ji had fallen into the drainage and she had also suffered some burns on account of the liquid substance splashed at her.

6. The conviction of the accused/appellants u/s 324 IPC therefore, does not seem to be beyond the evidence on record as the witnesses including the injured ones have been consistent in putting forth the injurious act of the accused/appellants and the injuries suffered by them are proved by the medical evidence also. This Court does not see any reason to take a different view from the one taken by the Court below as regards conviction part of the judgment impugned. It is hereby maintained.

7. As regards sentence, this Court keeping in mind the facts and circumstances of the case and also considering the larger interest of justice, thinks it proper to reduce the jail sentence of accused Durgawati to the period already undergone. Order accordingly. Though accused Mohilal Gupta is not reported to have remained inside even for a day, keeping in mind the facts and circumstances of the case, in particular, the fact that under Section 324 IPC even the sentence of fine alone would

suffice, the jail sentence imposed on him is replaced accordingly. However, looking to the act alleged against the accused/appellants, this Court thinks it appropriate to enhance the fine sentence imposed on them, to Rs.10,000/- (Rs.5000/- by each of the accused) only. Order accordingly. As of now both the accused/appellants are at large, and therefore, there is no need to order for their release etc. from jail.

8. Appeal is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)
Judge

Jyotishi/Pawan