

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 838 of 2004

1. Panch Ram @ Majhala Kutaru S/o. Tijau Ram Kewat, aged 40 years, occupation Labour

2. Shatrughan Kewat S/o. Panch Ram, Aged 18 years, occupation Labour

Both are resident of village Chaitama, Thana Pali, District Korba (CG)

---- Appellants

Versus

State of Chhattisgarh through Police Station Pali, District Korba (CG)

---- Respondent

For Appellants : Mr. Manoj Mishra, Advocate.

For Respondent : Mr. Samir Sharma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Judgment on Board

09.11.2020

The prosecution case, in brief, is that complainant Ishwar Singh was called by appellant No.1 in his house situated at village Chaitama, where appellant No.1 started quarrel with him by saying that he was in the habit of getting his wine seized and assaulted on the head of complainant with a *tabble*, as a result of which, he received injuries on his head. Thereafter, son of the appellant No. 1 namely shatrughan too assaulted him with *danda*. Mahettar who was already there intervened in the scuffle thereafter the

complainant reached the bus stand in the injured condition and informed the incident to his mother. Subsequently, FIR (Ex.P-1) came to be lodged against them in police Station under Section 397/34 IPC and the complainant was admitted in the hospital for treatment. During investigation, on the memorandum statement of the accused *tabble* and *danda* were recovered from them. After completion of investigation charge sheet was filed for the said offence followed by framing of charge accordingly.

2. Learned Court below vide judgment impugned dated 29.09.2004 passed in Sessions Trial No. 118 of 2004, acquitted the appellants of the charge under Sections 307/34 IPC but convicted appellant Pancharam under Section 324 IPC with imposition of sentence of 3 years RI under Section 324 IPC. Appellant Shatrughan was convicted under Section 324/34 IPC with imposition of sentence of 1 year RI under Section 324/34 IPC. Hence, this appeal.

3. Counsel for the appellants submits that the judgment of conviction and order of sentence passed by trial court is arbitrary, illegal and contrary to the evidence collected by the prosecution. As a last resort counsel for the appellants submits that if this Court does not interfere with the conviction part of the judgment impugned at least the sentence imposed on the appellants may be reduced to the period already undergone.

4. State counsel however, supports the impugned judgment to be fully justified that thus requires no interference in this appeal.

5. After hearing the counsel at length, keeping in view his arguments, I have carefully gone through the judgment impugned and the depositions of the injured/complainant and other prosecution witnesses, makes it clear that on the date of incident some scuffle coupled with hurling of filthy abuses had taken place between the complainant and the accused/appellant. The MLC report was proved by the doctor (PW-4), as per his report Ex.P-7 the injuries caused by the appellants was grievous in nature and he referred to the patient for surgical Specialist from Pali to CIMS Bilaspur for treatment and observation. As per his report injuries caused by hard and sharp object under Ex.P-7. Further, from the memorandum statements of the accused persons *tabble* and *danda* were recovered from them under seizure memo Ex.P-2, Ex.P-3, Ex.P-5 and Ex.P-6. Thus, the Court below has correctly analysed the evidence of the witnesses while arriving at the conclusion of the conviction of the accused/appellants and sentencing them as above. No interference with the judgment impugned is therefore, necessary by this Court.

6. As regards sentence, the report received from the Superintendent, Central Jail, Bilaspur, dated 30.10.2020 shows that after getting the benefit of remission, the accused/appellants have been released from the jail on 08.04.2006, therefore, no

observation regarding the sentence part is required to be made by this Court.

7. In view of what has been discussed as above, the appeal being without any substance is liable to be dismissed and is hereby dismissed as such.

Sd/-

(Vimla Singh Kapoor)
JUDGE

Santosh