

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 291 of 2007

Ganpat Sidar, S/o Bhogi Sidar, aged about 40 years, Occupation – Agriculturist, R/o Nawrangpur, Police Station – Sarangarh, District : Raigarh, Chhattisgarh

---- Appellant

Versus

State of Chhattisgarh, through Police Station – Sarangarh, District - Raigarh, Chhattisgarh.

---- Respondent

For Appellant	:	Shri Gurudev I. Sharan, Advocate
For Respondent	:	Shri Sameer Sharma, Dy. G.A.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on board

06.08.2020

What is unfurled from the story put forth by the prosecution is that on 31.12.2003, when victim Suraj Kumar Patel (PW-6) was going to his house for taking dinner, accused/appellant met him on the way and asked for setting his goats free from the impoundment by taking Rs. 5/-. Since, the rate prescribed for releasing the animals from the impoundment was Rs.25/-, the victim (PW-6) declined the request of the accused/appellant to do so. This refusal from the victim enraged the accused/appellant to such an incident, that he started abusing in filthy language and dealt a blow with the help of knife carried by him, on his chest. On hearing abuses, father of the victim namely Kishorilal Patel (PW-19) one Gulab Chandra Patel (PW-13), Ravishankar Patel (PW-11) and Tularam Patel (PW-7) reached the spot and on seeing them, the accused/appellant fled away with the knife used by him in commission of crime. Little later, the victim (PW-

6) along with villagers went to the Police Station and lodged the report Ex-P/10 on the basis of which, offence under Sections 307, 294 and 506 (B) of the IPC was registered against the accused/appellant. Victim thereafter was taken to Sarangarh, Hospital from where looking to the excessive bleeding from his chest, victim was referred to District Hospital, Raigarh by Dr. J.N. Shukla (PW-2) who gave the primary treatment to him. Thereafter, on 01.01.2004, surgical operation was performed on the right side of the chest of victim and even at that time profuse bleeding from his wound continued. In District Hospital, Raigarh, the victim remain hospitalised from 01.01.2004 to 08.01.2004, which is evident from the bed head tickets (Ex-P/1 and Ex-P/2). After completion of investigation, challan was filed under Sections 294, 307 and 506 (B) IPC, followed by framing of charges accordingly.

2. Learned Court below vide judgment dated 30.12.2006 passed in Sessions Trial No.132/2004 acquitted the accused/appellant under Sections 307 and 506(B) IPC and held him guilty under Sections 324 and 294 IPC with imposition of sentence of three years R.I. with fine of Rs.5,000/- and R.I. for for one month, plus default stipulations. Hence this appeal.

3. Learned counsel for the accused/appellant submits that the findings recorded by the Court below convicting the accused/appellant under Sections 294 and 324 IPC are not in accordance with the evidence adduced by the prosecution and therefore, they are liable to be set aside. He further submits that since the evidence of the witnesses has not been considered in its proper perspective, the conviction of the accused/appellant cannot be

allowed to stand on this count as well. This apart, counsel for the accused/appellant submits that the contradictions and omissions in the evidence of the material witnesses has also not been given proper weightage while holding the accused/appellant guilty as referred to above.

4. On the other hand supporting the judgment impugned, counsel for the respondent/State submits that the finding recorded by the Court below holding the accused/appellant guilty under Sections 294 and 324 IPC are based on proper analysis of the evidence of the witnesses and no infirmity in the judgment impugned is noticeable warranting any interference by this Court.

5. Apart from victim (PW-6), there are two eyewitnesses to the incident namely Tularam Patel (PW-7) and Ajit Ram (PW-10). From the evidence of victim (PW-6) it is apparent that on the date of incident, when he showed his inability to release the goats of the accused/appellant by taking just Rs.5/-, the accused/appellant got infuriated and started hurling filthy abuses at him and also opened an assault with knife held by him causing injuries over right side of the chest. His evidence is also indicative of the physical and mental agony undergone by him in the hospital, where surgical operation was conducted on him. This apart, there are other witnesses being Ravishankar Patel (PW-11), Gulab Chandra Patel (PW-13) and Kishorilal (PW-19), who came to the spot after hearing the abuses hurled by the accused/appellant to the victim and have stated that they saw the accused/appellant running away from the spot after causing injuries to the victim (PW-6). Evidence of Gulab Chandra Patel (PW-13) further shows that when the accused/appellant was

running away, he even tried to catch hold of him but remained unsuccessful in his bid. Seizure of blood stained clothes was also made from Ramnarayan (PW-9), who had gone to police station and then to hospital along with the victim. Evidence of Dr. A.K. Tirki (PW-1) who did surgery of the injuries suffered by the victim in right side of the chest has stated that he remained admitted in the hospital in the surgery ward from 01.01.2004 to 08.01.2004 and excessive bleeding was also noticed by him. This witness has stated that at the time when he started medical examination of the victim, already there were stitches on the wound of the chest. Ravishankar Patel (PW-11), Gulab Chandra Patel (PW-13) and Kishorilal (PW-19) have reiterated that they heard the accused/appellant hurling filthy abuses at the victim (PW-6). Investigating Officer has also supported the case of the prosecution.

6. From the evidence of the witnesses as discussed above, it is crystal clear that on the date of incident, the accused/appellant dealt the knife blow on the vital part of the body of the victim i.e. chest, as a result of which he was required to remain in hospital for more than a week but he was fortunate enough to survive the injuries suffered by him. From the medical evidence also, the nature and seriousness of injuries can be deciphered well. Seeing the evidence, this Court is of the opinion that the Court below has already been lenient while holding him guilty under Sections 324 and 294 IPC and, therefore, this Court does not see any scope of interference with a well written judgment by the Trial Court. Accordingly, the conviction of the accused/appellant under Sections 324 and 294 IPC is hereby maintained.

7. The report dated 30.04.2018 received from District Jail, Raigarh, however goes to show that after completing the sentence including the default one, the accused/appellant has already been set free on 12.02.2009 by getting the benefit of remission and therefore, no observation is required to be made by this Court on the sentence part of the judgment impugned.

8. In view of the above, the appeal being without any substance is liable to be and is hereby dismissed.

Sd/-
(Vimla Singh Kapoor)
Judge