

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 22/01/2020

Delivered on 28/02/2020

Criminal Appeal No. 611 of 2011

Kunj Ram, S/o- Shri Bhikhuram Yadav, Aged about- 40 years, Occupation- Agriculturist, r/o- Village Lakradhara, Police Station Farsabahar, District- Jashpur(C.G.)
---- Appellant

Versus

State of Chhattisgarh, Through: Station House Officer, Police Station: Kunkuri, District- Jashpur(C.G.)

---- Respondent

Appellant Kunj Ram is present in person along with his counsel Mr. J.K. Saxena, Advocate
 For State : Mrs. Shubha Shrivastava, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV Judgment**

1. This appeal is preferred against judgment dated 25th of July, 2011 passed by the Additional Sessions Judge, Jashpur (C.G.) in Sessions Trial No.44/2009 wherein the said Court convicted the appellant for commission of offence punishable under Section 324 of the Indian Penal Code, 1860 and sentenced him to undergo R.I. for 3 months and fine of Rs. 100/- with default stipulation.
2. In the present case, name of the victim is Sukhram Patel. As per version of the prosecution on 30th of May, 2009 at about 10.00 to 11.00 pm the complainant namely Sukhram had gone to construct the house of the accused Kunjram

along with his brother. After repairing house, present appellant/accused had cooked some mutton, in the meantime, some quarrel took place between the victim and accused. In the meanwhile, the present appellant poured petrol upon the victim Sukharam and burned him. Thereafter, matter was reported, investigated, charge-sheeted and Court convicted the accused/appellant as mentioned above.

3. Learned counsel for the appellant submits as under :-

(I) There is vital contradiction in the statement of the prosecution witnesses but the trial Court over-looked the same and recorded finding of conviction which is not legally admissible.

(ii) Dr.Ajit Minj (PW-10) deposed before the trial Court that injuries caused to Sukhram was simple in nature. Which can be cured within two weeks but the trial Court ignored the same while awarding the sentence. Therefore, finding of the Trial Court is against the factual matrix and same is liable to be set side.

4. On the other hand, learned State counsel submits that finding of the trial Court is based on proper marshaling of the evidence and same is not liable to be interfered with invoking jurisdiction of appeal.

5. Santosh Painkra (PW-4) deposed before the trial Court that he had gone to the house of the accused/appellant for repairing work and on the said date the appellant poured petrol on him and shown chimney on him that is why he

sustained burn injuries. Version of this witness is supported by version of Kacha Ram (PW-6), Narhari Ram (PW-7). Version of these witnesses further supported with evidence and Dr. Ajit Minj (PW-10) who noticed simple burn injuries on following body parts i.e. skin of both hands, chest, neck left and right side of face, hair of head and superficial skin of elbow and opined that patient have 45% burned which is mentioned in Ex.P-10. As per version of this witness injuries were simple in nature caused by some flammable article. Version of this above witnesses have been subjected to searching cross examination but nothing could be elicited in favour of the defence. Version of medical expert is also unrebutted and there is no opinion contrary to this expert. The trial Court after evaluating the entire evidence recorded finding that it is case under Section 324 of IPC because same is caused by means of fire or by heated substances.

6. On an overall assessment argument advanced on behalf of the appellant is not sustainable. Conviction of the appellant for the said offence is hereby affirmed.
7. Considering the facts and circumstances of the case and further considering the act of the appellant, the trial Court awarded jail sentence of 3 months to the appellant which cannot be termed as harsh, disproportionate or unreasonable.
8. Accordingly, the appeal is liable to be and is hereby dismissed. The appellant is reported to be on bail, his bail

bonds stand cancelled. The trial Court will issue non-bailable warrant against the appellant for his arrest to send jail for serving out the remaining part of the sentence. The trial Court to submit its compliance report on or before 31st August, 2020.

Sd/-
(Ram Prasanna Sharma)
JUDGE

N.Mohle