

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 632 of 2006

Judgment reserved on 25.09.2020

Judgment delivered on 29.10.2020

1. Ghasiram, aged about 65 years S/o. Shyamsunder Patel,
2. Sadanand, aged about 40 years, S/o. Ghasiram Patel,
3. Milap Singh, aged about 42 years, S/o. Ghasiram Patel,

All residents of village Tenduwahi, Police Station Tumgaon, District Mahasamund (CG)

---- **Appellants**

Versus

State of Chhattisgarh

---- **Respondent**

For Appellants : Mr. Shashi Bhushan Tiwari, Advocate.

For Respondent : Mr. Sameer Sharma, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

Case of the prosecution, in brief, is that accused/appellant No.1 Ghasiram had borrowed Rs. 50,000/- from victim Harishchandra (PW-1). It is alleged that on 31.10.2005, the victim/complainant went to the house of the appellants for demanding his money then appellant No.1 refused to give the same saying that even he sold his

land but he would not be returned his money. It is also alleged that appellant No.1 and his two sons abused the victim, threatened to kill him and thereafter appellant Milap committed *marpit* on the back of victim with hands and fists. The victim stated the incident to village Panch namely Mohan(PW-4) and he arranged a meeting to pacify the incident but the appellants did not attend the same then the FIR (Ex.P-1) was lodged by the victim (PW-1). After completion of investigation, charge sheet was filed against the appellants under Sections 294, 323, 506/34 IPC and 3(i)(x) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act followed by framing of charge accordingly.

2. Learned Court below vide judgment impugned dated 28.06.2006 passed in Special Sessions Case No. 145/2005 acquitted the accused/appellants under Sections 294, 506 B IPC and 3(i)(x) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act but has held them guilty under Section 323 IPC with imposition of sentence of four days SI and to pay fine of Rs. 500/- each under Section 323 IPC. Hence, this appeal.

3. Counsel for the appellants submits that the appellants have not committed any offence and they have been falsely implicated in this case. He submits that the trial court has erred in convicting the accused/appellants on the sole testimony of Harishchandra (PW-1) as he is not a reliable witness and the conviction cannot be based on his uncorroborated testimony therefore, the findings arrived at by the trial Court is liable to be set aside.

4. On the other hand, state counsel supporting the impugned judgment has submitted that the judgment of the trial Court is strictly in accordance with law and well founded and there is no illegality or infirmity in it warranting any interference by this Court.

5. Heard counsel for the parties and perused the material available on record including the judgment impugned.

6. After considering the submissions made by the learned counsel for the appellants and the evidence adduced by the prosecution before the Court below it appears that as the allegations have been leveled against the appellants for causing injuries to victim Harishchandra (PW-1) has also been proved not only by the testimony of Harishchandra (PW-1) but also from the statement of Bhoglu (PW-3) before whom the incident had happened. The testimony of victim Harishchandra (PW-1) was duly supported from the evidence of the Dr. G.L. Chandrakar (PW5) who examined the victim and found abrasion on the back of the victim in the size of 1/2 cm x 1/3 cm and swelling in the size of 3cm x2 cm on the back and submitted his report (Ex.P-6). The testimony of the victim is duly supported by timely lodged FIR (Ex.P-1) and the medical evidence given by G.L. Chandrakar (PW-5), the appellants could not file any documents to show that they had any previous enmity with the complainant (PW-1) therefore, it cannot be said that the appellants was falsely implicated in the matter. The statements of Sukhchand (PW-2), Bhoglu (PW-3), Mohan (PW-4) and Patiram (PW-6) have dully been corroborated from the statement of

victim. Thus the act of the appellants in assaulting the complainant (PW-1), is unequivocal from the material available on record and being so the Court below has rightly arrived at the conclusion of holding the accused/appellants guilty and then imposing the sentence referred to above. No legal flaw is noticeable in the well written finding under assail in this appeal. Being based on the evidence on record the judgment impugned does not need any interference by this Court and accordingly it is hereby maintained.

7. Appeal being without any substance is therefore, liable to be and is hereby dismissed.

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh