

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 505 of 2007

Sakharam S/o. Jhaggar Singh, aged about 30 years, R/o. Ward No. 1, Bhanpur, Police Station Bagbahra, District Mahasamund, CG.

---- Appellant

Versus

State of Chhattisgarh, through Police Station Bagbahra, District Mahasamund, CG.

---- Respondent

For Appellant : Shri Prasoon Agrawal, Advocate

For State/Respondent : Shri Sameer Sharma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Judgment On Board

21/09/2020

From the FIR (Ex.P-10) lodged by Nandlal (PW-2) it is revealed that on 23.08.2006 when he went out after hearing the commotion like activities, he saw his father sustaining bleeding injuries on his right shoulder, and his mother who was standing nearby told him that it is the accused/appellant who had caused injuries to him with the help of knife like weapon locally known as *Khookhri*. It is further alleged that the accused/appellant had in fact aimed the attack at the neck of the victim, but fortunately the blow fell on the right shoulder causing cut injuries which were bleeding profusely. On the basis of this report lodged by Nandalal (PW-2) an offence under Section 307 IPC was registered against the accused/appellant and the investigation eventually resulted in filing of the charge-sheet accordingly followed by framing of charge.

2. Learned Court below vide judgment impugned dated 31.05.2007 acquitted the accused/appellant of the charge under Section 307 IPC but held him guilty under Section 324 IPC and sentenced him to undergo RI

for two years with fine of Rs. 2000/-, plus default stipulation. Hence this appeal.

3. Having argued on merit for a considerable long time, learned counsel for the accused/appellant made an alternative prayer confining his stand to reduction of the sentence to the period already undergone if the conviction part of the judgment impugned is not likely to be interfered with. While arguing on merits he referred to the evidence of seizure witness (PW-3) who though admitted his signature on the seizure memo has expressed his inability to state as to from whom the weapon used in the commission of crime was seized and thus he turned hostile.

4. State counsel however supports the judgment impugned to be just and proper.

5. From perusal of the record it is apparent that though the seizure witness has not been in a position to pin-pointedly state as to from whom the weapon was seized but if the testimony of the victim (PW-1) is seen, it becomes crystal clear that on the fateful day when he was sitting in his house, the accused/appellant made an entry therein and dragged him out of his house. All this happened when some procession was being taken on the street in front of the house of the victim. After dragging the victim out, the accused/appellant assaulted him with some weapon and caused injury on his right shoulder. The narration of the victim finds support from the evidence of his wife being PW-4 who at the relevant time was standing outside her house and saw her husband being assaulted by the victim with some weapon. PW-4 thereafter informed the incident to PW-2 who at the relevant time was also in the house. If the version of PW-2 is seen, it emerges that after coming to know about the incident through PW-4 he went to the spot and saw his father suffering injury on his shoulder drenched with blood. The doctor who medically examined the victim being

PW-5 has also stated that apart from other injuries he noticed a cut wound in the size of 15x4 inch on the right shoulder of the victim and the fracture of shoulder bone was also noticed by him. This witness has though opined the injury No.3 to be simple in nature, the injuries No.1 & 2 have been opined to be grievous in nature. Thus the evidence does not persuade this Court to take the other view then the one taken by the Court below by convicting the accused under Section 324 IPC as the view taken is already lenient.

6. In aforesaid view of the matter the conviction of the accused/appellant under Section 324 is maintained. However, looking to the facts and circumstances of the case, that the incident had taken place about 14 years back and that the accused/appellant has already remained in jail for about 11 months and has thereby suffered a lot for his folly, this Court thinks it proper and in the interest of justice to reduce the sentence imposed on him to the period already undergone. Order accordingly.

7. Appeal is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge