

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 855 of 2002

Judgment reserved on 23.01.2020

Judgment delivered on 03.01.2020

Vinod Kumar S/o. Ramchandra Jha, aged about 22 years, occupation Kirana store, R/. Panarapara, Jagdalpur, District Bastar (C.G.)

---- **Appellant**

Versus

State of Chhattisgarh, through P.S. A.J.A.K. Jagdalpur, District Bastar (C.G.)

---- **Respondent**

For Appellant : Ms. Rajkumari Yadav, appears on behalf of
Mr. Subhash Yadav, Advocate.
For Respondent : Ms. Ishwari Ghritlahare, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

Case of the prosecution in brief is that on 12.09.2001 when son of complainant namely Jalandhar (PW-3) had gone to the river for bath, the accused/ appellant who was already there, pushed him in the waters. After returning home, he informed the same to his parents. It is alleged that when his father Ramchandra (PW-1) went to the accused to inquire as to why he pushed his son (PW-3) in the river, he got infuriated and started abusing him in the name of caste and also inflicted sword blows on his arm. It is further

alleged that when wife of PW-1 namely Balibai (PW-2) came to intervene, the accused/appellant assaulted her too with the same sword. Subsequently, FIR (Ex.P-1) came to be lodged against the appellant on the basis of which offence under Sections 324 IPC and 3(i)(x) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for short the "Special Act") were registered against him. 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 15.07.2002 passed in Sessions Trial No. 154 of 2002 acquitted the appellant of the charge under the Special Act but convicted him under Section 323 and 324 IPC with imposition of sentence of six months RI with fine of Rs. 300/- under Section 323 and RI for one year with fine of Rs. 700/- under Section 324 IPC, pulse default stipulations.

3. Counsel for the appellant 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. He submits that trial Court has acted illegally in holding the appellant guilty for the offence under Sections 323 and 324 IPC on wholly uncorroborated statement of complainant PW-1 and his wife PW-2.

4. On the other hand, learned State counsel supported the judgment impugned.

5. Though the evidence of PW-1, PW-2 and PW-3 speaks of use of sword by the accused/appellant while assaulting PW-1 and PW-2 yet no such seizure has been effected by the prosecution. The seizure made under Ex.P-7 is of chain cover of the bicycle, and the owner of the cycle Store being DW-1 has also corroborated the same stating that after exchange of hot words between accused and PW-1, the accused picked up the chain cover and ran after PW-1. Medical evidence, however, suggests that an abrasion on the forehead of PW-1 and incised wounds on ring finger and middle finger and abrasions on the shoulder and left leg vide reports Ex.P-5A and Ex.P- 4A respectively. While answering the query vide Ex.P-10A the doctor has opined the injuries caused to PW-1 and PW-2 to have been from the chain cover of the bicycle produced before him for examination.

6. Thus the evidence on record clearly establishes the act of the accused/ appellant of causing injuries to PW-1 and PW-2 with the help of chain cover of the bicycle duly seized under Ex.P-7 and fortified by the evidence of doctor (PW-8). After looking into the evidence of the doctor, there remain nothing on the basis of which conviction of the accused/appellant under Sections 323 and 324 IPC could be disturbed. Being so, it is hereby maintained. However, looking to the incident being of the year 2002, and that since then the accused has already faced a long drawn prosecution and even remained inside for two days, interest of justice, in the opinion of

this Court, would be served if his sentence is reduced to the period already undergone. Order accordingly.

7. Appeal is thus allowed in part to the extent indicate above. As the appellant is already on bail, his bail bonds stand discharged.

Sd/-

(Vimla Singh Kapoor)
JUDGE

Jyotishi/ Santosh

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No. 855 of 2002

Vinod Kumar **Versus** State of Chhattisgarh

19.02.2020	The matter is listed today on office note dated 13.02.2020 for correcting the date of pronouncement of the judgment dated 03.02.2020 where while uploading the same, the date has been mentioned as 03.01.2020 though the judgment was delivered on 03.02.2020. That error appears to be <i>bonafide</i> in nature, therefore, the final judgment in this case should be treated to have been delivered on 03.02.2020. Order accordingly. Sd/- (Vimla Singh Kapoor) Judge

Santosh