

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1055 of 2002

Order reserved on 23.01.2020

Judgment pronounced on 30.01.2020

Hemant Kumar @ Pappu, S/o Kushal Prasad Dubey, aged about 23 years, R/o Nawapara, District Raipur (CG)

--- Appellant

Versus

State of Chhattisgarh through Police Station Nawapara, District Raipur (C.G.)

--- Respondent

For Appellant : Dr. Shailesh Ahuja, Advocate

For State/Respondent : Ms. Ishwari Ghritlahre, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Order

In the case in hand the victim and the accused are none else but the husband and wife. It is alleged that being a liquor addict the accused/appellant used to ask for money from the victim even prior to the date of incident and eventually on the fateful day as the victim expressed her inability to fulfill his demand for liquor, he lost temper and dealt countless axe blows on various parts of her body being head, neck, ear, shoulder etc. which started bleeding profusely. She then went to Police Station and lodged the report Ex.P-1 on the basis of which offence under Section 307 IPC was registered against him leading to filing of *challan* after her medical examination followed by framing of charge accordingly.

2. Learned Court below vide judgment impugned dated 13.09.2002 passed in Sessions Trial No.294/2002 convicted the accused/appellant under Section 307 IPC and imposed the sentence of 7 years RI with fine of Rs.1000, plus default stipulation. Hence this appeal.

3. Counsel for the appellant though attacked the conviction on various counts yet his main emphasis had been to reduction of the sentence keeping in mind the fact that the accused and the victim being husband and wife have, with the passage of time, have come to terms, started

living together peacefully and cordially with their child, and no bitterness remains between them. State counsel however supports the judgment impugned.

4. Considering the evidence of the victim (PW-1) describing the incident in a graphic manner including the injuries suffered by her at the hands of accused who happens to be her husband, which has been duly supported by the medical evidence (vide rept Ex.P-8) opining 11 incised injuries sustained by the victim on various parts of her body such as head, neck, ear, shoulder etc. to have been caused by sharp edged weapon which were grievous in nature, and also mindful of the evidence of her father (PW-3) and mother (PW-7) which discloses that on being informed by some Santu they went to the hospital and came to know about the deadly act of the accused making their daughter remain hospitalized for 14 days, this Court affixes a seal of approval to the finding recorded by the Court below holding the accused guilty under Section 307 IPC. Seizure of axe made under Ex.P-4 has also been an aggravating factor operating against the accused/appellant, which has been duly proved by PW-4 and PW-8. PW-6 – the sister of the victim who was staying in the house of the accused has also corroborated the evidence of PW-1 specifically stating that when she came after playing, she found her sister having suffered injuries and the head injury was bleeding even. Thus ample evidence is there to affirm the conviction of the accused/appellant and therefore, this Court hereby does so.

5. As regards sentence, keeping in mind the facts and circumstances of the case particularly the fact that the parties to the case are husband and wife who have now come to terms and started living together a happy and peaceful life and the affidavit filed by the victim and others for release of the accused and further looking to the welfare of their minor child, and not being ignorant of the fact that the accused has already remained behind the bars for about one and a half year, this Court thinks it proper to

reduce the sentence imposed on the appellant to the period already undergone so that a well set-up family is not upset and so also the future prospects of their child are saved from being ruined. Order accordingly.

6. Appeal thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay