

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 19-12-2019

Delivered on 30-01-2020

CRA No. 662 of 2001

1. Ghasiya s/o. Sadhu Satnami aged 45 years.
2. Lalchand s/o. Chaitram Satnami aged 22 years.
3. Ghanshyam s/o. Chaitram Satnami aged 26 years.
4. Dulardas s/o. Ghasiya Satnami, aged 19 years.
5. Manwa s/o. Chaitram Satnami aged 35 years.
6. Gangadhar s/o. Mehtaru Satnami, aged 18 years.

All are residents of village Jagannathpur, Police Station Saja,
District Durg (CG).

---- Appellants

Versus

- State of Chhattisgarh

---- Respondent

For Appellants : Mr. Atul Pandey, Advocate

For respondent/State : Mr. Aman Kesharwani, PL.

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

1. This appeal is preferred against the judgment dated 17-7-2001 passed by 2nd Additional Sessions Judge, (FTC), Bemetara (CG) in Sessions Trial No. 358 of 1993 wherein the said Court has convicted the appellants for commission of offence under Sections 147, 148 and Section 324 read with Section 149 of IPC, 1860 for

causing injuries to Budhau and Sukhram by using sharp cutting object and sentenced them to undergo RI for six months, RI for six months and RI for six months and fine of Rs.500/- with default stipulations. All the sentences are directed to run concurrently.

2. As per version of prosecution, the incident took place on 26-10-1992 in the morning in the field where process of cutting of crop was going on. Injured Budhau and Sukhram were from one side while appellants and others were other side. It is alleged that the appellants assaulted both injured persons namely Budhau and Sukhram that is why report was lodged and after completion of trial appellants were charge-sheeted and convicted as mentioned above.

3. Learned counsel for the appellants submits that the trial court has not evaluated the evidence properly, therefore, finding of the trial court is liable to be set aside.

4. On the other hand, learned counsel for the State supporting the impugned judgment would submit that the finding of the trial Court is based on proper marshalling of the evidence and the same is not liable to be interfered while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused record of the court below in which impugned judgment is passed.

6. To substantiate the charge, prosecution examined as many as 21 witnesses. From the evidence of Amirdas (PW/1), Sukhram (PW/2), Biselal (PW/3), Amiradas I(PW/4), Ghanshyam (PW/6),

Sukhram (PW/7), Lakhan (PW/8), Budhram (PW/12) and Chitrekh Bai (PW/19), it is established that at the time of cutting of crop appellant Manwa assaulted Budhau by axe and Lalchand assaulted Sukhram by tabbal. From the evidence it is established that all the appellants were acting in-furtherance of common object but from their version it is not established that appellants Gasiya and Ghanshyam have participated in commission of that criminal act. Doctor who examined appellant Manwa and Sukhram opined that there were injuries caused by sharp cutting object. Axe was seized from appellant Gangadhar, Tangi was seized from appellant Dular and Tabbal was seized from the appellant Lalchand. Looking to the entire evidence, the trial court recorded finding of conviction under Section 324, 147 and 148 of IPC and sentence of RI for six months on each count.

7. After going through the record, there is no evidence to connect the appellant No.1 Gasiya and appellant No.3 Ghanshyam with any criminal act, therefore, their conviction for the said offences is hereby set aside and they are acquitted of the said charges framed against them. The fine amount, if paid, be refunded to them.

8. Taking into assessment of evidence, conviction of the appellants Lalchand, Dulardas, Manwa and Gangadhar is not liable to be interfered with and same is hereby affirmed. The appellants have suffered jail term from 30-10-1992 to 29-11-1992. In view of this court no useful purpose would be served if the appellants are

again sent to jail. Conviction of the appellants is reduced to the period already undergone by them. The fine amount imposed by the trial court shall remain intact.

9. With the aforesaid modification, the appeal is partly allowed. The appellants are reported to be on bail. Their bail bonds shall continue for further period of six months in view of Section 437-A of the Cr.P.C.

Sd/-

(RAM PRASANNA SHARMA)
Judge

Raju