

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 456 of 2001

1. Jaya Bai W/o. Dasrathi Gond, Aged 32 years, House Wife
2. Dasrathi Gond, S/o. Garud Singh, Aged 36 years, Cultivator,
3. Nehru Lal S/o. Garud Singh, Aged about 47 years, Cultivator.

All residents of village Lakhan Pali, P.S. Saraipali, Tahsil Saraipali,
District Mahasamund (C.G.)

---- Appellants

Versus

State of Chhattisgarh, through Police Station Saraipali, District
Mahasamund (C.G.)

---- Respondent

For Appellant : Mr. Rahil Arun Kochar, Advocate.

For Respondent : Mr. Ishwari Ghritlahare, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

20.02.2020

As per prosecution case, on 04.02.2000 at about 7.00 am,
when complainant Begilal was returning to his village after
purchasing bulls from the other village. The accused/appellants
who were coming behind him, stopped the complainant on the way
and assaulted him with spade and club, as a result of which the
complainant sustained injuries on his body. The incident was seen
by the Vasudev (PW-6) and Ramnath (PW-7), thereafter, the

complainant was admitted in the Saraipali hospital for treatment where on the information of complainant Dehatinalashi Ex.P-1 was registered in Police Station Saraipali and on the basis of which FIR Ex.P-13 was lodged against the appellants. 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 08.05.2001 passed in Sessions Trial No. 234 of 2002 has convicted the applicants under Sections 325/34 and 323/34 IPC with imposition of sentence of two years RI with fine of Rs. 1000/-each, and R.I. for one year under Section 323/34 IPC, pulse default stipulations.

3. Counsel for the accused/appellant submits that the version of complainant was not supported by the medical report. According to the dehatinalashi the complainant received 11 injuries whereas medical report shows that only four injuries were found on the body of the complainant. He submits that the conviction was only based on the sole statement of the complainant which was not supported by any independent witnesses.

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

5. Heard counsel for the parties and perused the evidence of injured Begilal (PW-1) where he has sated that before the incident he and Dashrathi were involved in business of buying and selling of

bulls. Complainant had to take six thousand rupees from Dashrathi and on the date of incident when he met with Dashrathi and had demanded his six thousands rupees from him, on the demand of money, Dashrath, his wife Jayabai and Nehru committed *marpeet* with him by spade and club. He has further stated that the incident was seen by Ramesh and Ved Prakash and thereafter he was taken to hospital by the villagers where he informed the whole incident to Police thereafter dehatinalashi Ex.P-1 was registered and on the basis of which FIR Ex.P-12 was lodged against the appellants.

6. Ved Prashad Sahu (PW-3) deposed that he was the eye witness to the incident. He has stated that he saw that Nehru was having spade in his hand and assaulted the complainant. Ramesh Chauhan (PW-4) has stated in his evidence that he has seen the incident and deposed in the same line as deposed by Ved Prashad Sahu (PW-3). In the cross examination, Ved Prashad Sahu (PW-3) and Ramesh Chauhan (PW-4) have supported the case of the prosecution.

7. Evidence of Doctor (PW-5) who medically examined the injured (PW-1) has noticed number of injuries on various part of the body of complainant which is evidence from Ex.P-2. Further Dr. (PW-5) advised him for x-ray. His evidence further discloses that as a result of assault multiple injuries were received by him including fracture on lenner ulna bone. The fracture opined by the doctor is evident from medical report Ex.P-2. The injuries were caused by

hard and blunt object. He further stated that to know the nature of injury no. 2 and 3 the injured was referred to Mekaharara Raipur Hospital for further treatment. Even the seizure of club has been proved by PW-6 and PW-7. Thus, the conviction of the accused /appellants under Sections 325/34 and 323/34 does not appear to be at fault and the Court below has considered all aspect of the matter while doing so. It is hereby maintained.

8. However, looking to the incident being of the year 2000, and that since then the accused/appellants have already faced a long drawn prosecution and even remained inside about one month and 10 days, interest of justice, in the opinion of this Court, would be served if their sentences are reduced to the period already undergone. Order accordingly.

9. Appeal is thus allowed in part to the extent indicate above. As the appellants are already on bail, their bail bonds stand discharged.

Sd/-

(Vimla Singh Kapoor)
JUDGE