

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 23 of 2009**

Chainkumar S/o Dokary, aged about 30 years, Occupation – Labour, R/o Village – Jiwari, Thana – Punjipathara, District – Raigarh, Chhattisgarh

---- Appellant**Versus**

State of Chhattisgarh, through Station House Thana - Punjipathara, District Raigarh, Chhattisgarh.

---- Respondent

For Appellant	:	Shri Rajkumar Pali, Advocate
For Respondent	:	Shri Sameer Sharma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor**Order on board****01.09.2020**

The incident is said to have taken place on 22.01.2008 at about 8.00 p.m. At that time, it is alleged that when victim Budhu Manjhi (PW-1) was sitting outside his house in front of the burning bonfire, the accused-appellant came there and started misbehaving with him. It is alleged that, when victim Budhu Manjhi (PW-1) objected to the mis-behavior being displayed by the accused-appellant, the accused-appellant came nearer to him and pressed down him on the fire. This was witnessed by Mehettar (PW-2) from some distance. When Mehettar (PW-2) came near the victim, the accused-appellant ran away from the spot and immediately he informed this incident to the daughter and son-in-law of the victim. Thereafter, son-in-law Nandram (PW-5) and daughter Uma Bai (PW-6) also rushed to the spot and saw the victim with burn injuries present over his body including face. On the next day, accused-

appellant was called by Bihari (PW-4), Bhojram (PW-7) and the village Kotwar (not examined), where on being questioned by them, the accused-appellant confessed his guilt. The victim was taken to the hospital, where Dr. V.K. Lakda (PW-10) medically examined him and found number of burn injuries and swelling on various parts of his body, in particular face and knee. The degree of burn injuries has been opined to be 10%. After completion of investigation, charge-sheet was filed under Section 324 IPC and charge was also framed accordingly. FIR was registered under Sections 294, 506-B and 307 IPC, which remained the same even in the charge-sheet filed by the Police as well as in the charges framed by the Court below.

2. Learned Court below vide judgment impugned dated 02.01.2009, passed by Additional Sessions Judge (FTC), Raigarh, in Sessions Trial No. 65/2008, acquitted the accused-appellant of the charge under Sections 294, 506-B and 307 of IPC but convicted him under Section 324 of IPC and sentenced him to undergo R.I. for three years with fine of Rs.500/-, plus default stipulations. Hence this appeal.

3. Counsel for the accused/appellant submits that the appellant is innocent and has not committed any offence, and his conviction is based on conjectures and surmises. He submits that the glaring inconsistencies in the evidence of witnesses have been given a complete go-bye by the Court below and in an utterly erroneous manner he has been convicted under Section 324 of IPC, which is not in conformity with the evidence of the witnesses.

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

5. Heard counsel for the parties and perused the judgment impugned and record of the Court below.

6. The evidence of victim Budhu Ram(PW-1) is ample clear of the fact that when he objected to the accused from displaying an unruly and haughty behavior, he came to him and stooped down his neck into the fire burning nearby. This was witnessed by Mehettar (PW-2) from some distance, who has categorically supported the case of the prosecution stating that when he went to the place of incident, the accused-appellant ran away from the spot. Bihari (PW-4) and Bhojram (PW-7) have also supported the case of the prosecution stating that on the next day when the accused was called and asked, as to why he did the cruel act by stooping down the victim into the fire, he confessed his guilt before them. Likewise, Nandram (PW-5) and Uma Bai (PW-6), the son-in-law and daughter of the victim, respectively have also supported the case of the prosecution stating that on coming to know about the incident when they went near the victim, he disclosed to them that it was the accused-appellant who was responsible for pushing him down into the fire and bringing about disfigurement and burn injuries in his bodies including the face and knee. Evidence of Dr. V.K. Lakda (PW-10) also supports the case of the prosecution wherein it is stated that he noticed burn injuries and swelling on various parts of the body of the victim in particular face and knee and the extent of the same has been opined to be 10%. Thus, the evidence is writ large to the effect that the accused-

appellant voluntarily caused hurt to the victim by means of fire and thereby has committed an offence punishable under Section 324 of IPC and therefore, his conviction recorded by the Court below does not suffer from any legal flaw and the same is hereby maintained.

7. As regards sentence, looking to the fact that the incident had taken place 12 years back and that the accused-appellant has already remained in jail for about one month, this Court does not see any reason in again curtailing his liberty being enjoyed after being bailed out and thereby disturbed his well settled family life. Therefore, the sentence imposed upon the accused-appellant is reduced to the period for which he has already remained in jail as figured out above. Ordered accordingly.

8. Appeal thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
Judge