

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 84 of 2007

Judgment reserved on 29.09.2020

Judgment delivered on 27.11.2020

1. Prem Singh Paikara S/o. Dharam Singh Paikara, aged 27 years,
 2. Narayan Singh S/o. Tulsingh Paikara, aged 24 years,
- Both are resident of village Bansajhaal, PS- Ratanpur, District Bilaspur (CG)

---- Appellants

Versus

State of Chhattisgarh through Police Station Ratanpur, District Bilaspur (CG)

---- Respondent

For Appellants : Mr. Manoj Mishra, Advocate.
For Respondent : Mr. Sameer Sharma, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

Brief facts of the case are that in the intervening night of 19-20/06/2006 at about 12.00 o'clock when the injured/victim (PW-1) was sleeping in his field for watching the Rabi crop, then appellants came there and assaulted with an axe on the neck and left hand of the victim (PW-1) with an intention to commit murder. Immediately

the victim woke up and tried to save him from the attack of the appellants. It is alleged that while the victim was caught hold by appellant No.2 then the assault caused on him by appellant No.1 with an axe, as result of assault, the injured sustained injuries on his left portion of lip, mouth and on the left wrist. It is also alleged that from the attack of axe, left portion of lip got chopped off from his mouth. After that the appellants left him on the spot and run from there. Subsequently, the victim went to the house of Mansai (not examined) for help then the children of Mansai informed about the incident to Lalitram- elder brother of victim after that the victim (PW-1) was taken to police station Ratanpur for making report wherefrom he was admitted in the hospital for treatment vide Ex.P-10. Based on this FIR (Ex.P-1), offences under Section 307/34 IPC was registered against them. After completion of investigation, charge sheet was filed against the appellants under the same sections followed by framing of charge accordingly.

2. Learned Court below vide judgment impugned dated 24.01.2007 passed in Sessions Case No. 370/2006 acquitted the accused/appellants under Sections 307/34 IPC but has held them guilty under Sections 324/34 and sentencing each of them with imprisonment for 2 years with fine of Rs. 1000/- plus default stipulations. Hence, this appeal.

3. Counsel for the appellants 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. Apart from

advancing strenuous arguments on merit, learned counsel for the appellants eventually slackened his stand and confined his prayer for reduction of sentence to the period already undergone, which in this case comes to about 6 months.

4. On the other hand, state counsel supporting the impugned judgment has submitted that the judgment of the trial Court is strictly in accordance with law and well founded and there is no illegality or infirmity in it warranting any interference by this Court.

5. Heard both the parties and perused the record.

6. On perusal of record, it is found that the FIR (Ex.P-1) has been registered by injured/victim (PW-1) on 20.06.2006 soon after the incident. It was alleged by the victim (PW-1) that he was sleeping in his field for watching Rabi crop then the appellants came there with an intention to commit murder on account of old dispute and inflicted axe injuries on the lip, mouth and on the wrist. Weapon of assault i.e. axe was seized from the possession of appellant No.1 under Ex.P-8, which was also sent to FSL for chemical examination. Baiyalal (PW-5) is the witness to seizure of axe and has admitted his signature thereon. Inspector Lalchand Mohale (PW-14) is the witness who recorded FIR (Ex.P-1) and investigated the matter has supported the case of the prosecution. Thus, the involvement of the accused/appellants in the crime in question where he along with accused Narayan Singh assaulted the victim with an axe, is fully established. Number of injuries have been noticed by Dr. A.K.

Shrivastava (PW-10) but fracture was not found on the vital part of injured. However, from the evidence of victim, (PW-1) it is apparent that the accused/appellants opened an assault on the victim with axe but fortunately the injuries did not turn out to be fatal ones. Injured (PW-1) while deposing in the Court remained stood by the prosecution right from the beginning and in the cross examination also he put the things very consistently.

7. The Court below thus did not go wrong in convicting the accused/appellants under Section 324/34 IPC for causing injury to the victim (PW-1) with a deadly instrument used for cutting. The finding of conviction recorded by the Court below is hereby maintained.

8. However, looking to the incident being of the year 2006, and that since then the accused/appellants have already faced a long drawn prosecution and even the appellant No.1 remained inside about seven months and the appellant No. 2 remained inside about one and half month, interest of justice, in the opinion of this Court, would be served if their sentences is reduced to the period already undergone. Order accordingly.

9. Appeal is thus allowed in part to the extent indicated above. As the appellants are already on bail, no further order to set them free etc. is necessary.

Sd/-
(Vimla Singh Kapoor)
JUDGE