

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 949 of 2011

Bhushanlal Bhuarya, S/o Bisnath Bhuarya, aged about 40 years, R/o
Khairkatta, Thana- Dondilohara, District- Durg (C.G.) ---- **Appellant**

Versus

The State of Chhattisgarh, through Police Station- Dondilohara, District-
Durg (C.G.) ---- **Respondent**

For Appellant : Mr. Kalpesh Ruparel, Advocate.
For State/respondent : Mr. Afroj Khan, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

JUDGMENT ON BOARD

06/02/2020

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against judgment dated 01.12.2011 passed by Additional Sessions Judge, Balod, District- Durg (C.G.) in Session Trial No. 86/2011, wherein the said court convicted the appellant for commission of offence under Section 326 of IPC, 1860 and sentenced to undergo R.I. for 7 years and fine of Rs. 100/- with further default stipulations.
2. In the present case, name of the complainant/ victim is Ranjanlal. As per version of the prosecution, the appellant assaulted the complainant by axe on 11.05.2011 at about 12:10 in night when the complainant was sleeping outside of his house. The appellant injured the victim multiple time that is why the case was registered under Section 307 of IPC, 1860, but after evaluating the evidence, the trial court recorded finding that it is a case under Section 326 of IPC, 1860 thereafter, convicted and sentenced accordingly.
3. Learned counsel for the appellant submits as under:-
 - (i) The evidence of the complainant is not inspiring confidence

because the same is full of exaggeration and omission.

(ii) The witnesses are also not reliable because the evidence is contrary in nature.

(iii) The trial court has not evaluated the evidence properly, therefore, finding arrived at by the trial court is liable to be set aside.

4. On the other hand, learned State counsel submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.
5. I have heard learned counsel for the parties and perused the records.
6. Ranjanlal (PW-1) deposed before the trial court that at the time of incident i.e. on 10.05.2011 at about 11 p.m. in night, he was sleeping outside his house in courtyard and at the same time, the appellant entered into that place and assaulted him by axe multiple time. Version of this witness is supported by version of Shanti Bai (PW-2) who is eye-witness account to the incident and she was sleeping in the same place. Both witnesses have been subjected to searching cross-examination, but nothing could be elicited in favour of defence.
7. Version of this witness is supported by version of Dr. S.L. Oika (PW-3) who examined the victim on 11.05.2011 at Community Health Centre, Dondilohara and noticed following injuries (Ex.P/3).
 - (i) Incised wound on face right cheek size 6" x 1" x 1".
 - (ii) Broken teeth right side.
 - (iii) Incise wound on right shoulder size 3" x 1" x 1".
 - (iv) Head injury- incised wound on right parietal region size 2" x 1.5" x 1.5".
8. As per version this witness, all the injuries were grievous in nature and

was caused by hard and sharp object. Version of this witness is further supported by version of Dr. P.K. Guha (PW-8) who also noticed injuries on body of the victim. The evidence of the complainant is inspiring confidence because there is nothing on record to say that the appellant has been roped with false charge for any grudge or otherwise, therefore, from direct and medical evidence, it is clearly established that the appellant caused grievous injury on body of the victim by sharp object.

9. The act of the appellant falls within mischief of Section 326 of IPC, 1860 for which the trial court convicted him and after evaluating the entire evidence, this Court has no reason to record contrary finding. Arguments advanced on behalf of the appellant is not sustainable. Conviction of the appellant for offence under Section 326 of IPC, 1860 is hereby affirmed.

Heard on the point of sentence.

10. The trial court awarded R.I. for 7 years for commission of offence under Section 326 of IPC, 1860 which cannot be termed as harsh, disproportionate or unreasonable looking to the gravity of offence. The sentence part is also not liable to be interfered with. Accordingly, the appeal is liable to be and is hereby dismissed.
11. It is reported that the appellant has suffered full jail sentence and has been released from jail after getting benefit of remission, therefore, no further order of arrest etc. is required.

Sd/-
(Ram Prasanna Sharma)
Judge