

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 910 of 2019

Smt. Ramti Bai @ Ram Bai Vishvkarma W/o Akbar
Vishvkarma Aged About 47 Years R/o Near Bhata Para Talab,
Tarpongi, Police Station Dharseevan District Raipur
Chhattisgarh. **---- Appellant**

Versus

State of Chhattisgarh Through Station House Officer, Police of
Police Station - Dharseewan, District- Raipur Chhattisgarh.

---- Respondent

For appellant : Mr. Anil Gulati, Advocate

For State : Mrs. Smita Jha, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

13/01/2020

1. This appeal is preferred against the judgment dated 07-12-2018 passed by 7th Additional Sessions Judge, Raipur (C.G.), in Sessions Trial No. 41/2017, wherein the said Court convicted the appellant for charge under Sections 323, 324, 325, 307 & 436 of Indian Penal Code, 1860 and sentenced him to undergo R.I. for 3 months and fine of Rs. 200/-, R.I. for 6 months and fine of Rs.400/-, R.I. for 1 year and fine of Rs. 1000/- , R.I. for 4 years and fine of Rs. 2000/-, R.I. for 4 years and fine of Rs. 2000/- with default stipulations.
2. In the present case, name of victims are Akbar Vishwakarma(PW-3), Ms. Lata (PW-1), Sushil Vishvkarma (PW-4). As per version of the prosecution, on the night of 7th of November, 2016 Anil Vishwakarma(PW-2) was sleeping along with his family in his house. His father namely Akbar Vishwakarma was also present there and he had consumed

liquor. The appellant is step mother of Anil Vishwakarma(PW-2), on the date of incident she annoyed with the father of the complainant for the reason that father of the complainant had more affection towards Anil Vishwakarma, therefore, there was some altercation took place between Akbar Vishwakarma and the appellant and the said appellant put the residential house into fire and caused fatal injuries on the body of Akbar Vishvkarma i.e. head, ears and both hands with a sharp object (*Bassulla*). She also assaulted to Lata. Thereafter, the matter was reported and investigated and charge-sheeted against the appellant as mentioned above.

3. Learned counsel on behalf of appellants submits as under -

(I) Statement of the prosecution witnesses are contradictory in nature, therefore, the same is not dependable to arrive any conclusion to guilt of the appellant.

(ii) Offence under Section 307 is not made out even then the trial Court convicted the appellant and not evaluated the entire evidence in its true perspective, therefore, finding of the trial Court be set aside.

4. On the other hand, learned State counsel submits that finding of the trial Court is based on proper marshaling of the evidence and same is not liable to be interfered with invoking jurisdiction of appeal.

5. Lata(PW-1), Anil Vishvkarma (PW-2), Akbar Vishvkarma (PW-3) and Sushil Vishvkarma (PW-4) are reported to be an eye witnesses account to the incident. All have deposed in one voice that it is the appellant who assaulted Akbar Vishvkarma by sharp object (*Bassula*). Again, she assaulted to Lata. It is also deposed by them that appellant caused fire to clothes which are kept in the house. All these witnesses have been subjected to searching cross examination but nothing is elicited in favour of the defence.

6. Date of incident is 8th of November, 2016. F.I.R. lodged by the complainant on same date at police station Dharsiva naming the appellant as culprit. As act of assault and causing fire is also mentioned in the said report. Version of direct evidence supported with an F.I.R. Dr. Sanjeev Mesham (PW-10) who examined Akbar Vishvkarma on 18th of November, 2016 at Community Health Centre, Dharsiva noticed the following injuries.

(I) Injury No.1- lacerated incised wounds measuring 4x2x1/2 cm, near parital oxipital region of left side of head.

(ii) Injury No. 2, lacerated wounds measuring- 3x1x1/2 cm. near left ear.

(iii) Injury No.-6, lacerated wounds on left ring finger measuring- 4x1/2x1/2cm., near right side of the head.

(iv) Injury No. 7, lacerated wounds in the lower region of injury No- 2, measuring- 2x1/2x1/2 cm.

(iv) Injury No. 3, 4, 5 and 8 were incised wounds and injury No. 9 was punctured wound.

7. Looking to the entire evidence, it is clearly established that mischief by fire and causing fatal injury on the body of the Akbar is established. From the evidence of Lata, it is also established that she sustained injuries in her body. Looking to the clinching evidence argument advance on behalf of the appellant is not sustainable. Conviction of the appellant is hereby affirmed.
8. Trial Court awarded 4 years sentence to the appellant for offence under Sections 307 and 436 of IPC and it cannot be termed as harsh, disproportionate or unreasonable, therefore, sentence part is not liable to be disturbed and appeal is hereby dismissed.
9. The appellant is reported to be is in jail, therefore, no further order for his arrest etc., is required.

Sd/-
(Ram Prasanna Sharma)
Judge