

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1116 of 2018

Tilak Ram Gavde S/o Kunwar Singh Gavde, aged about 25 years, R/o Village Mohgaon, P.S: Lohattar, District: North Bastar, Kanker (C.G.)

---- Appellant

Versus

State Of Chhattisgarh through the Station House Officer, Police Station: Lohattar, District: North Bastar Kanker (C.G.)

---- Respondent

For Appellant	:	Mr. Varunendra Mishra, Advocate
For State/Respondent	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

04.08.2020

1. The matter is heard through Video Conferencing.
2. This appeal has been preferred against the judgment dated 12.04.2018 passed in S.T. No. 20 of 2016 by the learned Additional Sessions Judge, Bhanupratappur, District: North Bastar Kanker (C.G.) wherein, the Appellant has been convicted under Section 451 of IPC, 326 of IPC and sentenced to undergo R.I. for 02 years and to pay fine of Rs.1,000/-, sentenced to undergo R.I. for 05 years and to pay fine of Rs.1,000/- respectively with default stipulation.
3. According to the case of prosecution, on 11.02.2016, at the night, complainant Tulsi Ram was preparing food in his *Kothar*. After some time when there was no light he went to take torch from his

house, where he found that the Appellant is present in his house, knowing which he asked that how he came to his house and for what purpose, having said that, the Appellant attacked the complainant with the help of one sharp object. This incident was witnessed by his neighbour namely Ms. Basan Purame. After that, the complainant told his family members about the alleged incident. The matter was reported to the concerned Police Station and the police has registered the offence. Statements of the witnesses were recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed by the police. To robe the Appellant in the crime-in-question prosecution examined as many as total 11 witnesses. In the statement of Appellant recorded under Section 313 of Cr.P.C, Appellant pleaded his innocence and false implication in the matter, however no defence witness was examined by the Appellant. After completion of trial, Trial Court convicted and sentenced the Appellant as mentioned in Para 01 of this judgment. Hence this appeal.

4. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that out 05 years of jail sentence the Appellant has undergone about four and half years, he has no criminal antecedent and he is facing the *lis* since 2016, i.e. for about 04 years. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.

5. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
6. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 05 years, the Appellant has undergone about 04 and half year, he is facing the *lis* since 2016 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentence awarded to him is reduced to the period already undergone by him.
8. Consequently, the appeal is partly allowed. The conviction of the Appellant under the aforementioned section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
9. It is reported that the Appellant is in jail, he be released forthwith if not required in any other case.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge