

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 715 of 2012

Sukdas S/o Late Benuram Kashyap, Caste- Bhatra, aged about 48 years R/o Village Nandpura, Amligudapara, Police Station Bhanpuri, District- Bastar (C.G.).

---- Appellant

Versus

State of Chhattisgarh through Police of Police Station Bhanpuri, District Bastar (C.G.).

---- Respondent

For Appellant	:	None
For Respondent	:	Mr. Anand Verma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

10/01/2020

1. By the impugned judgment dated 08/05/2012 passed in Sessions Trial No. 09/2011 by the Sessions Judge, Bastar place at Jagdalpur (C.G.), the Appellant has been convicted under Section 307 of the IPC and sentenced to undergo RI for 3 years and to pay fine of Rs. 500/- with default stipulation.
2. Facts of the case are that on 18/09/2010 at about 7:00 pm, the Appellant was quarreling with wife in the house of Complainant Lakhibai. Seeing this, Dhanar, younger brother of the Complainant tried to convince the Appellant, due to which the Appellant got annoyed and assaulted the Appellant by a spade on his head. Dhanar sustained injuries on his head. Thereafter, the Appellant ran away from the spot. Lakhibai Bai lodged the report. Statement of the injured as well as other witnesses under Section 161 of the Cr.P.C have been

recorded. On the memorandum statement of the Appellant, one spade was recovered from his possession. After completion of investigation, a charge-sheet has been filed. As many as 11 prosecution witnesses have been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter. No defence witness has been examined.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Jagdalpur would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released 25/02/2013
5. Since no one appears on behalf of the Appellant, therefore, I am going to decide this appeal on its merit.
6. I have heard Learned Counsel appearing for the State and perused the record.
7. In his Court statement, Dhanar (PW2) has deposed that on the date of incident at about 6:00 pm, he was taking meal in his house. The Appellant was abusing his wife, then his wife came to him and got wrapped with him. The Appellant came there and assaulted him by a spade and caused injury on his head, due to which, he became unconscious. He further deposed that he was admitted in hospital for about 15 days. The above statement of this witness is duly corroborated by Lakhmi (PW1) who lodged the FIR. Ashmati (PW3), wife of Dhanar and Champa Bai (PW4) also supported the above

incident. All the above witnesses have remained firm during their cross-examination. From the medical report and X-ray of the Injured, it is also established that there was fracture on his left frontal bone.

8. On minute examination of above evidence, it is clear that the Injured had sustained grievous injuries on his head. From the statement of the witnesses, it is also established that the injury was caused by the Appellant by a spade. The Appellant and the Injured are brother and there may not be an intention to kill the Injured, but the assault has been made by a spade on the head of the Injured, therefore, the trial Court has rightly convicted and sentenced the Appellant.
9. Consequently, I do not find any merit in this appeal. The same is dismissed.

**Sd/-
(Arvind Singh Chandel)
Judge**