

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRA No. 1064 of 2019**

Munna Singh S/o Late Rai Singh Dhanuهار Aged About 30 Years R/o Lamnidand Amjhar, Police Station - Pasan, District Korba Chhattisgarh. **---- Appellant**

**Versus**

State of Chhattisgarh Through The Station House Officer, Police Station Pasan, District Korba Chhattisgarh.

**---- Respondent**

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For appellant : Mr. Manoj Kumar Jaiswal, Advocate

For State : Mr. Aman Kesharwani, P.L.  
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**Hon'ble Shri Justice Ram Prasanna Sharma**

**Judgment On Board**

**14/01/2020**

1. This appeal is preferred against the judgment dated 07/12/2018 passed by Additional Sessions Judge, Katghora, District- Korba (C.G.), in Sessions Trial No. 18/2018, wherein the said Court convicted the appellant for charge under Sections 304 Part-I & 323 of Indian Penal Code, 1860 and sentenced him to undergo R.I. for 10 years and fine of Rs. 100/-, R.I. for 1 month and fine of Rs. 100/- with default stipulations.
2. In the present case, name of the deceased is Andhulal Dhanuهار. As per prosecution story, on 27<sup>th</sup> of November, 2017, at about 4 pm in house of deceased Andhulal Dhanuهار, at village Amjhar Lamnidand, the appellant entered into the house and inflicted arrow on body of Andhulal Dhanuهار multiple times and he died. The Appellant also caused injury to the body of wife of the deceased namely Ram

Bai(PW-1). In autopsy report it is confirmed that deceased sustained arrow injuries. Thereafter, matter was reported, investigated, charge-sheeted and Court convicted 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, which is supported by independent witnesses, therefore, charge as alleged by the prosecution against the appellant is not sustainable.

(ii) There are no eye witnesses account to the incident, no cogent and clinching evidence to say the involvement of the appellant in the instant case.

(iii) The trial Court has overlooked the contradiction and omission in the statement of the prosecution witnesses, therefore, finding of the trial Court is liable to 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. Ram Bai (PW-1) and Samal Singh(PW-3) are eye witness account to the incident, both deposed that injury to the body of the Andhu Lal caused by the appellant. Learned counsel for the appellant submits that Ram Bai (PW-1) admitted in her

cross examination that she was in the inner side of the home at the time of the incident, therefore, she had no occasion to see the incident. After going through the entire evidence of this witness it is clear that she is an eye witness account to the incident because she is wife of the deceased. Therefore, any single sentence in her statement will not sufficient to reject her whole version. Version of this witness is supported by the Budhram Dhanuhar (PW-2), Samal Singh(Pw-3), Jivan Lal (PW-4), Vijay Singh Maravi (PW-5) and Santosh Kuamr (PW-6) who had occasion to see the injury of the deceased. All these witnesses have been subjected to searching cross examination but nothing could be elicited in favour of the defence. Version of all these witnesses is supported by version of Dr Dushyant Kashyap(PW-7) who conducted autopsy on 28<sup>th</sup> of November, 2017 and notice following injuries by:-

#### External Examination-

- (i) Injury caused by first arrow on the right lung of the deceased, which is measuring- 3x2x6 cm.
- (ii) Injury caused by second arrow, which is measuring – 3x2x5 cm.
- (iii) Injury caused by third arrow, which is measuring -3x2x7 cm.
- (iv) Injury caused by fourth arrow, which is measuring – 3x2x8 cm.

#### Internal Examination-

(i) Cranium, spinal cord, membrane, brain remain intact.

(ii) blood clot on chest and on rib, right lung was ruptured,

6. As per version of this medical expert, he found four arrows injuries on the body of the deceased and also examined four arrows, and opined that cause of death of the deceased was by shock. Which was caused by injuries of arrow and same was sustained within 24 hrs of the examination. Version of this witness remained constant and there is no other medical expert opinion contrary to this medical expert, therefore, there is nothing on record to reject the version of this witness. From the entire evidence, it is clearly established that appellant is the author of the crime.
7. It is arguable whether this act falls within definition of murder or may fall within culpable homicide, but no appeal is filed by the state for enhancement of sentence.
8. Looking to the entire evidence, argument on behalf of the appellant is not sustainable because there is no material contradictions and omissions which goes to the root of the case. Minor contradictions which are not significant, having no adverse effect to the case of the prosecution. Therefore,

argument on behalf of the appellant is liable to be and is hereby rejected.

9. From the evidence of Ram Bai, it is established that appellant assaulted her on her feet. Her version is supported by version of Dr. Dushyant Kashyap (PW-7) who noticed two contusions in right feet of the victim Ram Bai which was caused by hard and blunt object and both are simple in nature. Causing simple voluntary injury is offence under Section 323 of IPC for which the trial Court convicted the appellant and his conviction for this offence is also upheld. The trial Court awarded sentence of 10 years to the appellant under Section 304 Part-1 of IPC. Which cannot be termed as harsh, disproportionate and unreasonable. Therefore, sentence part is also not interfered with. Appellant is reported to be in jail, therefore, no further order for his arrest etc., is required.

10. Accordingly, the appeal is liable to be and is hereby dismissed at motion stage.

**Sd/-**  
**(Ram Prasanna Sharma)**  
Judge