

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 194 of 2017

Devnarayan Sidar S/o Shri Jagdev Sidar, aged about 27 years R/o Village Chitwahi P.S. Tamnar Distt. Raigarh (C.G.).

---- Appellant

Versus

State of Chhattisgarh through P.S. Tamnar, Raigarh (C.G.)

---- Respondent

For Appellant	:	Mr. Ajay Mishra, Advocate
For Respondent	:	Mr. Ghanshyam Patel, Govt. Adv.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

12/06/2020

1. By the impugned judgment dated 23/09/2016 passed in Session Trial No. 121/2015 by the Sessions Judge, Raigarh, District Raigarh (C.G.), whereby the Appellant has been convicted under Section 307 of the IPC and sentenced to undergo RI for 5 years and to pay fine of Rs. 500/- with default stipulation.
2. Facts of the case are that on 18/07/2015, Complainant Nohar Das (PW2) was taking bath at one pond. At that time, the appellant came there and stopped him from taking bath. On this, a dispute took place between both of them. Thereafter, the appellant assaulted the Complainant by a sharp weapon on his neck, due to that the Complainant sustained injuries on his neck. The matter was reported by Parath Das, son of the Complainant. The Complainant was taken to the hospital. His dying declaration was recorded there. Later on, statements of witnesses were also recorded under Section 161 of the

Cr.P.C. After completion of investigation, a charge-sheet was filed.
Trial Court framed the charges.

3. After completion of trial, the trial Court has convicted and sentenced the appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Counsel for the appellant has submitted that the trial Court has wrongly convicted the Appellant without there being any evidence available on record.
5. Counsel appearing on behalf of the State supported the judgment of the trial Court.
6. I have heard counsel for the parties and perused the record.
7. This case is entirely based on the statement of Nohar Das (PW2) because there is no eye-witness in this case. In his Court statement Nohar Das (PW2) has deposed that on the date of incident when he was taking bath in a pond, the appellant came there and stopped him from taking bath. On this, a dispute took place and the appellant assaulted him by a Tangi, due to that he sustained injuries on his back side of neck. On this point, this witness has remained firm during his cross-examination. There is nothing in his cross-examination on the basis of which, it can be said that the Complainant was having any previous enmity and therefore there is no possibility that he is falsely implicating the appellant in this case.
8. From the statement of Dr. S. Toppo (PW11) and MLC report of the Complainant (Ex.P-7), it is well established that the Complainant sustained total three injuries. First one was lacerated wound on left scapular region, size 6 X1X3.5 cm, second was lacerated wound on

joint of neck and back, size 4X1X3.7 cm and third was lacerated wound on the half part from ear to neck, size 12X3 cm. According to the opinion of the doctor that the injuries were sufficient to cause death of the Complainant. Thus, from the statement of the doctor and MLC reports also corroborates the statement of Nohar Das (PW2).

9. Considering the entire evidence available on record, the trial Court has rightly convicted the Appellant which does not require any interference.
10. Consequently, I do not find any merit in this appeal. The same is dismissed.

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