

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1267 of 2014****Judgment Reserved on 01.07.2020****Judgment Delivered on 03.07.2020**

- Ayodhiya Prasad, S/o Gen Ram Baghel, Caste- Satnaami, aged about 36 Years, R/o Shuklabhate, Police Station Magarlod, District Dhamtari C.G.

----Appellant**Versus**

- State of Chhattisgarh, Through District Magistrate, Police Station Magarlod, District Dhamtari C.G.

---- Respondent

For Appellant	Shri Sanjeev Sahu, Advocate.
For Respondent/State	Shri Ayaz Naved, Government Advocate.

Hon'ble Shri Justice Gautam Chourdiya**C A V Judgment**

1. The matter is heard through Video Conferencing.
2. In this appeal filed under Section 374(2) Cr.P.C., the appellant has challenged the legality, validity and propriety of the judgment of conviction and order of sentence dated 03.12.2014, passed by the Sessions Judge, Dhamtari, C.G. in S.T. No.13/2014, whereby and whereunder the appellant stands convicted and sentenced as under:-

Conviction	Sentence
Under Section 294 of Indian Penal Code	Rigorous Imprisonment for three months

Under Section 307 of Indian Penal Code	Rigorous Imprisonment for seven years and fine of Rs.100/-, in default of payment of fine amount to undergo additional simple imprisonment for one month.
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3. Case of the prosecution in brief is that on 07.04.2014 at about 9:30 am, complainant Chandrashekar was spreading muroom on the way to the sewer in the village along with Omkar, Shatrughan, Chandrahas Banjare and other people under Rozgar Guarantee Scheme. After completing their work, they went on the road and sat in front of the cricket ground, at that time accused/appellant came there by using filthy language in public place and assaulted upon the complainant by spade on his head and other parts of his body, as a result of which, complainant sustained grievous injuries on his body. Thereafter, people who were present there called 108 vehicle and sent the complainant to Government Hospital for treatment. On report being made by Complainant to police on the same day, it was recorded in Dehati Nalishi vide Ex.P-1 and thereafter FIR Ex.P-12 was registered against the accused/appellant under Crime No.79/14. The incident was witnessed by Omkar, Shatrughan, Chandrahas Banjare and other witnesses. Injured person was sent for medical examination who was examined by PW-4 Dr. Ashutosh Gupta vide Ex.P-8. The injuries sustained by the injured person are as under:-

1. Deep locovated injury left parietal area of head 8 cm x 3 cm.

Movgins irregular (not clean/fine)

2. Abrasion on left ear pinna 2 cm x 1 cm.

3. Superficial lacerated injury left shoulder 2.5 cm x 1 cm

No other obvious external injury seen. According to the Doctor, the injuries were caused by hard and blunt object.

As per Ex.P-9 - No obvious fracture seen, expert opinion may be required in case of doubt.

PW-7 Dr. Chandrika Sahu did the CT Scan of complainant and found fracture on the person of the injured vide Ex.P-19 as under:-

1. Fracture of left parietal bone with surrounding extra cranial soft tissue hematoma.

2. Small hemorrhagic contusion in left fronto-parietal region.

4. During investigation, as per Ex.P-2 one blood stained shirt of the complainant was seized. X-ray report and CT scan report of complainant were also seized as per Ex.P-3. Spot Map was prepared vide Ex.P-4. One spade was seized from accused/appellant vide Ex.P-5. The seized items were sent for chemical examination. Accused/appellant was arrested on 09.04.2014 vide Ex.P-13. After recording statements of the witnesses, charge sheet was filed against the accused/appellant under Sections 294, 324, 307 of IPC.

5. The trial Court framed charges under Sections 294 and 307 of IPC against the accused person which were denied by him and he prayed for trial. The prosecution examined 7 witnesses in support of its case i.e. PW-1 Chandrashekar Banjare/complainant, PW-2 Chandrakant, PW-3 Omkar Singh, PW-4 Dr. Ashutosh Gupta, PW-5

Chandrahas Chandrakar, PW-6 Dr. Smith Kumar and PW-7 Dr. Chandrika Sahu. Statement of the accused/appellant was recorded under Section 313 of Cr.P.C. in which he denied the incriminating circumstances appearing against him in the prosecution case, pleaded innocence and false implication. However, no defence witness was examined by him.

6. The trial Court after hearing counsel for the parties and considering the material available on record, convicted and sentenced the accused/appellant as mentioned above.
7. Learned counsel for the appellant submits that due to previous enmity with the complainant, the appellant has been falsely implicated in this case. Looking to the statements of PW-1 Chandrashekhar Banjare/complainant and PW-5 Dr. Ashutosh Gupta, the prosecution has failed to prove its case beyond all reasonable doubt. No independent witness has supported the prosecution case. He also submits that no such nature of injury was found endangering the life of the complainant. The trial Court only on the basis of conjectures and surmises has held the appellant guilty and therefore, the impugned judgment is liable to be set aside and the appellant be acquitted of all the charges.
8. On the other hand, supporting the impugned judgment learned counsel for the State submits that conviction and sentence of the accused/appellant are strictly in accordance with law and there is no illegality or infirmity in the same warranting interference by this Court.

9. Heard learned counsel for the parties and perused the material available on record.
10. PW-1 Chandrashekhar Banjare/complainant stated in his deposition that on 07.04.2014 at about 9:30 am, he was spreading muroom on the way to the sewer in the village along with Omkar, Shatrughan, Chandrahas Banjare and other people under Rozgar Guarantee Scheme. After finishing their work, they went on the road and sat in front of the cricket ground, at that time accused/appellant came there by using filthy language in public place and assaulted upon him by spade on his head and other parts of his body, as a result of which, he sustained grievous injuries on his body. While the appellant was trying to further assault on him (PW-1 Chandrashekhar), the persons present there intervened in the matter and saved the complainant from the appellant. Thereafter, 108 vehicle (Ambulance) was called by the persons and they sent him to Government Hospital for treatment. Then, police came to the hospital where oral report was lodged against the accused/appellant.
11. PW-2 Chandrakant is the eyewitness of the incident. He has duly supported the statement of PW-1 Chandrashekar/complainant. He also stated that in his presence spot map Ex.P-4 was prepared, shirt of complainant was seized vide Ex.P-2 and C.T. Scan and X-ray reports were also seized vide Ex.P-3.
12. PW-3 Omkar Singh is also the eyewitness of the incident. He has also stated the same facts as stated by PW-1 Chandrashekar/complainant and PW-2 Chandrakant.

13. PW-4 Dr. Ashutosh Gupta medically examined the injured complainant vide Ex.P-8 and noticed certain injuries as mentioned in the preceding paragraph. He has duly proved the said injury reports. He also examined the seized articles and opined that the injuries suffered by the victim could be caused by seized spade.
14. PW-6 Dr. Smith Kumar also proved the injury report, CT Scan report, Bed Head Ticket & fracture on head of the complainant.
15. PW-7 Dr. Chandrika Sahu also proved the CT Scan report vide Ex.P-19.
16. PW-5 Chandrahas Chandrakar is the Investigating Officer, who lodged the FIR Ex.P-12, sent the complainant for medical examination, prepared the spot map Ex.P-4, recorded the statements of the witnesses, seized the article/spade vide Ex.P-5, prepared arrest memo vide Ex.P-13, prepared the query report of complainant, arrested the accused/appellant & sent the seized articles for examination to FSL vide Exs. P-14 and P-15.
17. There is no reason to disbelieve the evidence of injured witness and eyewitnesses. They have specifically stated that the accused/appellant was filthily abusing PW-1 Chandrashekar/complainant and assaulted upon him by spade as a result of which he sustained grievous injuries. The evidence of complainant and eyewitnesses are fully supported by the medical evidence in the form of MLC of injured person and the evidence of PW-4 Dr. Ashutosh Gupta, PW-6 Dr. Smith Kumar and PW-7 Chandrika Sahu, who have duly proved that the injuries found on the body of complainant were danger to his life.

18. Looking to the statement of the complainant which is duly supported by the evidence of the eye-witnesses and the medical evidence, the FIR and further considering the fact that there is no major contradiction or omission in his statement and eyewitnesses' statements affecting the creditability of his version, no any evidence was adduced by the defence for false implication of the appellant, this Court finds no reason to disbelieve complainant's statement or to arrive at a conclusion that he has falsely implicated the appellant. Being so, the trial Court was fully justified in convicting and sentencing the appellant by the impugned judgment and as such no interference is called for by this Court.

19. In the result, the appeal being without any substance is liable to be dismissed and is, accordingly, dismissed. As per report dated 06.06.2020 submitted by Jail Superintendent, Central Jail Raipur, the appellant having completed the jail sentence has been released from jail on 02.07.2019. Therefore, there is no requirement of passing any order in respect of arrest, surrender etc. of the appellant.

Sd/-
Gautam Chourdiya
Judge