

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.1569 of 2019**

- Devdas S/o Shivbalak Aged About 39 Years Resident Of Village Pusla, Police Station Sonhat, District Koriya Chhattisgarh.

---- Appellant**Versus**

- The State Of Chhattisgarh Through The Station House Officer, Police Station Sonhat District Koriya (Baikunthpur) Chhattisgarh.

---- Respondent

For the appellant :Shri Vijay Kumar Sahu, Advocate
 For the Respondent/State:Shri Ishwar Jaiswal, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma
Judgment on Board

08.01.2020

1. The appeal is preferred against judgment dated 31.8.2019 passed by Additional Sessions Judge, Korea (Baikunthpur) (CG) in Session Case No.117/2017 wherein the said Court convicted the appellant for the commission of offence under Section 325 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for two years and to pay fine of Rs.1000/- with default stipulation.

2. As per the version of the prosecution, name of the victim is Ramlal. On 30.8.2017, when he was returning after his duty, present appellant along with other co-accused persons stopped him and caused him grievous injury by axe and other articles. The matter was reported and investigated and the appellant has been convicted as mentioned above.

3. Learned counsel for the appellant submits that there is no eyewitness account to the incident and the statement of the victim and other witnesses is contradictory in nature, therefore, finding of the trial Court is not liable to be sustained.

4. On the other hand, learned counsel for the State supporting the impugned judgment would submit that the finding of the trial Court is based on proper marshaling of the evidence and the same is not liable to be interfered with while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused the judgment impugned.

6. Now the question for consideration of this Court is whether the appellant assaulted the victim. Rambabu (PW-1), Ramlal (PW-2), Vishnu (PW-3) and Ramdhani (PW-4) have deposed before the trial Court that the appellant assaulted the victim Ramlal by axe which caused injury on his head. Version of this witness is supported by Dr. Surendra Paikra (PW-6) who examined the victim on 01.9.2017 at District Hospital, Baikunthpur and noticed incised wound measuring 5 x 2 cm on his head with bleeding. As per the version of this witness, the injury was dangerous and caused within 48 hours of the examination. All these witnesses have been subjected to searching cross-examination but nothing could be elicited in favour of the defence. The medical report is also unrebutted and there is no opinion contrary to the opinion of the medical expert.

7. Causing dangerous injury is an offence of 'grievous hurt' as defined under Section 320(Eightly) of the IPC which falls within mischief under Section 325 IPC. After going through the entire record, arguments advanced on behalf of the appellant is not sustainable. The appellant has rightly been convicted by the trial Court. The trial Court awarded sentence of two years which cannot be termed as harsh, disproportionate or unreasonable. The appellant has suffered full jail term, therefore, no order for his arrest etc. is required.

8. Accordingly, the appeal is dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE