

HIGH COURT OF CHHATTISGARH, BILASPUR

- State Of Chhattisgarh Through S.H.O. Police Station Mohan Nagar, District Durg, Chhattisgarh.

Versus

- Respondents

For Appellant-State :- Mr. K.K. Singh, G.A.

By

Prashant Kumar Mishra, J.

19/02/2020

1. At the very outset, it is informed that the default has already been removed.
2. On due consideration, delay of 63 days in filing of the instant appeal is condoned. Accordingly, I.A. No.01/2019, for condonation of delay is allowed.
3. Heard learned State counsel on admission.
4. This appeal is preferred seeking enhancement of sentence awarded to the accused persons upon their conviction for committing offences under Section 304 Part-II read with Section 34 of the I.P.C.; under Section 323 read with Section 34 of the I.P.C. (twice) to accused persons namely; Benuram Sahu and Devcharan Sahu and under Section 323 read with Section 34 of the I.P.C. (twice) to accused persons namely; Nirmala Sahu and Meena Sahu. For the said offences each of them have been awarded sentences to undergo R.I. for 07 years with fine of ₹ 500/- and R.I. for 01 year and fine of ₹ 300/- respectively.
5. Accused persons were sent for trial for committing murder of deceased – Ganpat Sahu and causing simple hurt to injured persons namely; Sulochana Sahu (PW-3), Yamini Sahu (PW-5) and Girijabai Sahu (PW-8). The trial proceeded for offences under Sections 147, 506 Part – II, 302/149,

323/149 of the I.P.C.

6. The incident happened at about 16:30 hours on 23.07.2017 at Jayanti Nagar behind Pragya Traders when both the parties, who are close relatives, entered into altercation, quarrel, manhandling and *maar peeth* and in the process the accused persons entered the house of the deceased and assaulted him by hand, fist and kicks. When the injured persons namely; Sulochana Sahu, Girijabai Sahu, Yamini Sahu and informant Santosh Kumar Sahu (PW-1) intervened, they too were assaulted.
7. Upon marshalling of the evidence putforth by the prosecution, the trial Court has found that as per the statement of informant PW-1 Santosh Kumar Sahu, who is also an injured, the incident happened all of a sudden on account of dispute between relatives and that the accused persons were not armed. The trial Court has also discussed the deposition of other witnesses who too have admitted that none of the accused persons were armed and that the incident happened because of dispute between relatives. While discussing evidence of medical expert Dr. Sangeeta Bhatia (PW-16), the trial Court has found that the injuries sustained by the injured persons were simple in nature. Similarly, PW-17 Dr. R.K. Nayak who has conducted the postmortem and submitted his report Ex-P-18 finding that

the deceased had sustained injuries over neck, right cheek, right eye, forehead, upper lips and right knee. The deceased was aged about 70 years and had not sustained any serious external injuries. He admits that deceased had not sustained any lacerated wound and that all injuries except one injury were simple in nature.

8. In view of the above findings recorded by the trial Court, it clearly appears that the incident happened all of a sudden without premeditation; accused persons were not armed; and they are close relatives. Thus, the trial Court's finding that the incident would fall under the fourth exception to Section 300 of the I.P.C. is perfectly borne out from the evidence on record.
9. Accordingly, no case for interference with the impugned order for enhancement of sentence is made out, as in our opinion, sentence for R.I. for 07 years for offence under Section 304 Part-II of the I.P.C. is adequate in the facts and circumstances of the case.
10. The appeal is hereby dismissed at the motion stage itself.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge

Ayushi