

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 613 of 2003**

- Brijlal, S/o Shri Ghanaram, aged about 25 years, R/o Village-Kukrachunda, P.S.- Bhatapara (Rural), District- Raipur, Chhattisgarh.

---- Appellant**Versus**

- The State of Chhattisgarh, Through: Bhatapara 'Rural', District-Raipur, Chhattisgarh.

---- Respondent

For Appellant : Mr. Pragalbha Sharma, Advocate

For Respondent/State : Mr. Ishwar Jaiswal, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****22/09/2021**

1. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 30.04.2003 passed by the learned First Additional Sessions Judge, Baloda-bazar, C.G. in S.T. No. 396/2002 whereby, the learned First Additional Sessions Judge, Baloda-bazar convicted the appellant and sentenced him as under :-

S. No.	Conviction	Sentence
01.	U/s 324 of the IPC	R.I. for two years

2. Brief facts of the case are that on 04.06.2002, some dispute arose between the complainant and the appellant, thereafter appellant assaulted the complainant with an axe, due to which complainant sustained injuries. Thereafter, FIR (Ex. P/10) was lodged against the appellant for the offence punishable under Sections 307 & 201 of IPC. After investigation, charge-sheet was filed and charges were framed against the appellant for the offence punishable Sections 307 & 201 of

IPC and other co-accused- Hullas for the offence punishable under Section 201 of IPC.

3. So as to hold the accused/appellant guilty, the prosecution has examined as many as 11 witnesses. Statements of the accused/appellant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 30.04.2003 passed by the learned First Additional Sessions Judge, Baloda-bazar, C.G., co-accused- Hullas has been acquitted of the charges framed for the offence punishable under Section 201 of IPC and the appellant has been convicted and sentenced as mentioned in paragraph 1. Hence, the present appeal.

5. Learned counsel for the appellant submits that learned trial court has erred in holding the appellant guilty for the offence as aforementioned. He further submits that the impugned judgment of conviction and sentence is contrary to law and evidence available on record. The learned trial Court has erred in convicting the appellant under Section 324 as the prosecution failed to prove its case. He next added that the tangiya (axe) and torn clothes were seized from an open place and prosecution has failed to establish that torn cloth was belonging to the accused, looking to the nature of the injuries, no offence U/s 324 of IPC is made out against the appellant. The prosecution has failed to prove its case beyond reasonable doubt, the incident is said to have taken place in the year 2002, appellant has already remained in jail for about three months and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

6. Learned counsel for the State has no objection to this preposition.

7. Heard learned counsel for the parties and perused the material available on record including the impugned judgment.

8. Having gone through the material on record and the evidence of the witnesses, it can be established that the involvement of the accused/appellant in the crime in question has been proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by appellate court below as regards conviction of the appellant under Section 324 of IPC.

9. As regards sentence, keeping in view the facts that the incident had taken place in the year 2002 the appellant had already remained in jail for about three months, I am of the view that ends of justice would be served, if the sentence imposed on him is reduced to the period already undergone by him.

10. In view of the above, the appeal is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him. The appellant is reported to be on bail. His bail bonds shall stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**

R/-