

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 614 of 2009**

- Heeralal, S/o Shri Ramhaiya Marar, aged about 40 years, R/o Vill. Kikirda, Chowki, Hasoud, P.S. - Jaijipur, District - Janjgir Champa, Chhattisgarh.

---- Appellant**Versus**

- State of Chhattisgarh, Through – Station House Officer, P.S. - Jaijipur, District – Janjgir-Champa, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Pawan Shrivastava, Advocate.
For Respondent	:	Mr. Akash Pandey, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****06/09/2021**

1. This appeal has been preferred against the judgment dated 30.06.2009 passed in Sessions Trial No. 65/2009 by the Additional Sessions Judge, Sakti Sessions Division Janjgir-Champa, (C.G.), whereby the appellant has been convicted under Section 325 of the Indian Penal Code and sentenced to undergo R.I. for 3 years and to pay fine of Rs. 5,000/- with default stipulation.
2. Facts of the case are that on 01.09.2008, one Dashrathlal informed in police chowki Hasaod, P.S. - Jaijipur about death of his mother namely Buglibai stating that on 27.08.2008 at about 7:30, the appellant alongwith other co-accused persons namely Jyoti Patel, Ramaiya and Sitaram were abusing and assaulting him and when his mother

Buglibai tried to intervene, the appellant pushed her, upon which she pull down and received injury, which was reported in police station on 28.08.2008. The injured Buglibai was admitted in the hospital and after treatment she was discharged from hospital on 30.08.2008 and when she reached to the village, she died. On the basis of the said report, offence has been registered. Statements of the witnesses were recorded. After completion of investigation, a charge-sheet was filed. Trial Court framed the charges under Sections 302 & 323 r/w 34 of the I.P.C.. As many as 15 prosecution witnesses have been examined. No defence witness has been examined. Statement of the appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has acquitted the appellant from the charge under Section 302 of the I.P.C., however, convicted and sentenced the appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the appellant has undergone about 10 ½ months out of total jail sentence of 3 years, he has no criminal antecedent and he is facing the *lis* since 2009, therefore, he prays that the jail sentence awarded to the appellant may be reduced to the period already undergone by him.
5. Per contra, learned Counsel appearing for the State supported the

impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.

6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 3 years, the appellant has undergone about 10 ½ months, he is facing the *lis* since 2009 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the appellant, the jail sentence awarded to him is reduced to the period already undergone by him.
8. Consequently, the appeal is partly allowed. The conviction of the appellant under the aforementioned Section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
9. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge