

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 67 of 2014

- Anand Toppo S/o Juvel Toppo Aged About 34 Years R/o Village Dhouradand, P.S. Duldula, Distt. Jashpur, Civil And Rev. Distt. Jashpur Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through SHO, PS Duldula, Distt. Jashpur, Chhattisgarh

---- Respondent

For Appellant	:	None.
For Respondent/State	:	Mr. Roshan Dubey, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

21/01/2021

1. By the impugned judgment dated 14/11/2013 passed in S.T. No. 38/2011 by the Additional Sessions Judge, Kunkuri, District Jashpur(C.G.), the Appellant has been convicted for the offence punishable under Section 304 Part-2 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 5 years and to pay fine of Rs. 5,000/-, with default stipulation.
2. According to the prosecution story, on 20.03.2011, deceased Virendra Bada, Vikas and Sarojani Toppo went to forest to collect *Mahuwa* at that time Appellant reached their and assaulted Virendra Bada and Sarojani Toppo with the help of Axe and due to that they both have sustained injuries and became unconscious. Thereafter, they both

have shifted to Hospital situated at Kunkuri and later on they have referred to Raipur Hospital for better treatment. During course of treatment, Virendra Bada died. After the incident, the matter was reported by Amrus Bada. On the basis of said report, initially offence under Section 307 and 324 of the IPC was registered. Later on statement of the complainant and other witnesses recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet has been filed under Section 302, 307 & 324 of the IPC. Trial Court has framed the charges. To prove the guilt of the Appellant, the prosecution has examined as many as 18 witnesses. No defense witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C. was recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Ambikapur Surguja (C.G.) dated 09.11.2020 would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released on 23.01.2015.
5. Since no one appears for the Appellant today, I decide this appeal on merits.
6. I have heard Learned Counsel appearing for the State and perused the record to assess the correctness of the impugned judgment of conviction.
7. Initially deceased Virendra Bada and Sarojani Toppo were medically

examined by Dr. Vinod Lakda (PW-15), medical examination reports of Vinod Bada and Sarojani Toppo are (Ex. P-28) and (Ex. P-25). According to the opinion given by Dr. Vinod Lakda, the deceased died due to lacerated wound of size 3x1x1 cm. over occipital region of his head. Postmortem of deceased was conducted by Dr. Shivnarayan Manjhi (PW-18). According to the opinion given by Dr. Shivnarayan Manjhi, the deceased died due to injury on his head. In the Court statement of Amrus Bada (PW-1), he deposed that at the time of incident, when he reached the spot, he saw that Appellant assaulted Virendra Bada and fled away from the spot. The matter was reported by this witness, this witness also deposed that at the time of incident, Sarojani Toppo was also injured and she was unconscious. From the statement of Vikas Bada (PW-2) & Ku. Varsha (PW-3), it is well established that the deceased was assaulted by the Appellant with the help of Axe.

8. On minute examination of the evidence, it is clear that there is sufficient evidence available on record against the Appellant. Looking to the entire evidence adduced by the prosecution, in my considered view the Trial Court has rightly convicted the Appellant.
9. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge