

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 146 of 2020

- Sudhir Singh @ Bablu S/o Dashrath Aged About 19 Years R/o Village Kasra, Gaovatia Para, Police Station Patna, District Koriya Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Baikunthpur District Koriya Chhattisgarh.

---- Respondent

For Appellant	:Mr. Anil Gulati, Advocate.
For State/Respondent	:Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

10.09.2021

1. This appeal has been preferred against the judgment dated 08.01.2020 passed in Sessions Trial No.39/2018 by the learned Additional Sessions Judge (FTC), Baikunthpur, Distt. Korea(C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 304-II of the IPC and sentenced to undergo RI for 5 years and to pay fine of Rs. 5,000/- with default stipulation.
2. In this case, name of the deceased is Raimal Singh. According to the case of prosecution on 26.11.2017 at around 7 AM when the deceased Raimal Singh went to tie his ox near road side of his house, he did not found *khunta* there, upon which he started abusing and filthy language to co-accused Kaushalya, her son i.e. the present Appellant came running and assaulted the deceased with the help of Akhain (an

agricultural tool) due to which the deceased sustained injuries on his head, hand, leg and back side of his body. Thereafter, the deceased was admitted in District Hospital, Baikunthpur(C.G.), where during course of treatment he died. Thereafter, the matter was reported. On the basis of said report, offence has been registered against the Appellant. After completion of investigation, a charge-sheet was filed against the Appellant and her mother/co-accused Kaushalya Bai. Trial Court framed the charges under Section 302 of the IPC against the Appellant. To robe the Appellant in the crime-in-question, the prosecution has examined as many as 17 witnesses. In the statement of the Appellant recorded under Section 313 of Cr.P.C, he has pleaded his innocence and false implication in the matter, however, no defence witness was examined by the Appellant.

3. After completion of trial, Trial Court acquitted the co-accused and also acquitted the Appellant from the charges punishable under Section 302 of the IPC. However, convicted and sentenced the Appellant as mentioned in Para 01 of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that the deceased himself used filthy language with the Appellant and co-accused due to which, the incident has taken place. He further submits that the Appellant is in jail since 29.11.2017. He has completed nearly about 4 years in jail. He has no criminal antecedent and has facing the *lis* since 2017. Therefore, it is prayed that the jail sentence awarded to him

may be reduced to the period already undergone by him or his sentence may be reduced from 5 years to 4 years.

5. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
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 the fact that due to sudden rage of anger, the incident has taken place. The Appellant is a villager, he has no criminal antecedent and he is facing the *lis* since 2017. 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 from the period 5 years to 4 years.
8. Consequently, the appeal is partly allowed. The conviction of the Appellant under Section 304-II of the IPC is affirmed and against the conviction, he is sentenced to the period from 5 years to 4 years. The fine sentence for the above offence is also 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