

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 186 of 2018**

- Shani Nayak, S/o Hariram Nayak, Aged About 32 Years, R/o Pipar Sakti, Police Station Akaltara, Janjgir Champa, Presently R/o Khairkhundi, Police Station Ratanpur, District Bilaspur, Chhattisgarh.

---- Appellant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Ratanpur, District Bilaspur, Chhattisgarh.

---- Respondent

For Appellant : Ms. Sareena Khan, Advocate.

For State/Respondent : Shri Ghanshyam Patel, Govt. Advocate.

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****25/08/2021**

1. This appeal has been preferred against the impugned judgment dated 23/12/2017 passed in S.T. No.88/2017 by the 5th Additional Sessions Judge, Bilaspur, District – Bilaspur, (C.G.) wherein appellant has been convicted and sentenced as under :

<u>Conviction</u>	<u>Sentence</u>
U/s 307 of the I.P.C.	R.I. for 7 years and fine of Rs.1,000/- with default stipulations.
U/s 294 of the I.P.C.	R.I. for 2 months and fine of Rs.500/- with default stipulations.

U/s 506 of the I.P.C.	R.I. for 1 year and fine amount of Rs.500/- with default stipulations.
All sentences to run concurrently.	

2. According to case of the prosecution, on 01.02.2017 at about 8:50 A.M., appellant was abusing in front of house of Maniram (PW-3) in filthy language. When Maniram tried to stop the appellant, then appellant lace with *lathi*, threatened him and assaulted him in his head and other parts of the body due to which Maniram sustained injuries on his head and other parts of the body. Thereafter, victim Maniram was taken to the hospital for treatment. Matter was reported by one Ajay Nayak and on the basis of the said, offence has been registered. Statements of the victim and other witnesses were recorded under Section 161 of Cr.P.C. After completion of the investigation, a charge-sheet was filed. Trial Court framed charges. To prove the guilt of the accused/appellant, prosecution has examined as many as 12 witnesses. No defence witness has been examined. Statement of appellant under Section 313 of the Cr.P.C. was recorded, wherein accused/appellant has pleaded innocence and false implication in the matter.
3. After completion of trial, the trial Court has convicted and sentenced the appellant as mentioned in paragraph 1 of this judgment. Hence, this appeal.
4. Learned Counsel appearing on behalf of the appellant submits that appellant is innocent and is falsely implicated in the present case. She further submits that trial Court has wrongly convicted the appellant

without there being sufficient and clinching evidence against him. There are material contradictions and omissions occurred in the statements of the witnesses and the said was not appreciated by the trial Court. Therefore, conviction of the appellant is not sustainable.

5. Per contra, learned Counsel appearing for the State supports the impugned judgment and submits that sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing for the parties, perused the statement of witnesses and other annexed documents available on record minutely.
7. With regard to the alleged incident, victim Maniram Nayak (PW-3) in his Court statement has deposed that on the date of incident, appellant came in front of his house and started abusing in filthy language. When he tried to stop, then appellant assaulted him with *lathi* in his head due to which he sustained injuries and fall on the ground. Statement of Maniram Nayak (PW-3) was duly corroborated by Savita Bai (PW-1) who is daughter of Maniram, Tijobai (PW-4) i.e. wife of Maniram, Shanti Bai (PW-5) and Ku. Sarita Nayak (PW-6). The above witnesses remained firm during their cross-examination. Medical report of the victim Maniram also corroborates the case of the prosecution. Looking to the entire evidence adduced by the prosecution, in my considered view, the trial Court has rightly convicted the appellant. Thus, conviction is affirmed.
8. With regard to the sentence of the appellant, considering the facts that appellant is the son-in-law of the victim Maniram (PW-3), he is in jail

since 12.07.2017, he is facing the *lis* since 2017 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 under Section 307 of the I.P.C. is reduced from seven years to five years. The fine sentence is affirmed and in default of payment of fine, appellant is liable to undergo further R.I. for six months.

9. Consequently, the appeal is partly allowed to the extent indicated above. The fine sentence of above offences are affirmed.
10. 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