

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 261 of 2009

1. Mangal Singh, S/o Late Chamar Singh, aged about 32 years,
2. Shiwati Bai widow of Chamar Singh, aged about 54 years,
Both resident of Village Raikera, PS & Tahsil Gharghoda, District Raigarh

---- **Applicant**

Versus

State of Chhattisgarh, through District Magistrate, Raigarh (CG).
---- **Respondent.**

For Applicant : Shri Manoj Kumar Sinha, Adv.

For State/Respondent : Shri Sameer Sharma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Judgment On Board

18/02/2021

FIR (Ex.P-1) lodged by Shaniram (PW-1) on 14.08.2003 shows that on account of land related dispute, deceased/accused Chamar Singh and accused Shivati Bai had caused injuries to Shaniram (PW-1). Deceased/accused Chamar Singh used club whereas accused Shivati Bai used axe in causing injuries to PW-1. It is alleged that when Kanhaiya (PW-2) – the son of injured PW-1 intervened in the matter he was also inflicted axe injuries by accused Mangal Singh, on his neck and left hand. Based on the FIR, offence under Section 307 IPC was registered against all the accused/applicants which on investigation culminated in the charge-sheet being filed under Sections 307 and 324/34 IPC. Charge was however framed under Section 324/34 IPC only.

2. Learned Magistrate convicted the accused/applicants under Sections 324 and 324/34 IPC with imposition of sentence of 6

months RI and fine of Rs.100/-, on each count. In appeal also the findings of learned Magistrate recorded vide judgment dated 20.02.2007 remained unchanged by the judgment under assail in this revision.

3. Apart from assailing the judgment impugned on merits, learned counsel for the accused/applicant submits that looking to the facts and circumstances of the case and the detention period of the accused/applicants, at least the sentence imposed on them may be reduced to the period already undergone in case his submission on merits is not going to find favour from this Court. State counsel however supports the judgment impugned.

4. Evidence of victim (PW-1) goes to show that in the wake of the old land related dispute there had been some verbal feud between him and the accused/applicants which eventually aggravated to the extent where accused Shivati Bai opened an assault by using axe and the deceased/accused with club. It is also apparent from the evidence of PW-1 that when his son Kanhaiya (PW-2) intervened in the matter, accused Mangal Singh inflicted injuries on him with the help of axe. PW-7 and PW-8 while supporting the case of the prosecution have also described the injuries on the person of PW-1 and PW-2. Doctor (PW-9) by his report Ex.P-3 found incised wound on the left shoulder of Shaniram (PW-1) caused by some hard and blunt object. As regards Kanhaiya (PW-2), incised wound was present on the back side of his neck vide report Ex.P-4. Query report (Ex.P-8) also indicates that the injuries to PW-1 and PW-2 could have been caused with the axe

produced before him for examination. As regards the nature of injuries, it is evident from the medical evidence that injury No.1 i.e. on left shoulder of PW-1 and on the back side of neck of PW-2 were grievous. Doctor (PW-10) who medically examined Kanhaiya (PW-2) has stated that he remained under treatment from 17.08.2003 to 27.08.2003. Investigating Officer (PW-11) has also supported the case of the prosecution describing the evidence which he came across, in support of its case.

5. The facts and evidence appreciated as above lead this Court to the only irresistible conclusion that the finding of conviction of the accused persons under Section 324/34 IPC is fully based thereupon. Both the Courts below have not misdirected themselves in any manner whatsoever while reaching this conclusion. Conviction is thus maintained.

6. As regards sentence, keeping in mind the fact that the incident had taken place about 18 years back and that the applicants have already suffered a lot by undergoing the litigative wrangles and that they remained in jail for about a month, interest of justice would be served if the sentence imposed of the accused/applicants is reduced to the period already undergone. Order accordingly.

7. Revision is thus allowed in part to the extent indicated above.

Sd/-

(Vimla Singh Kapoor)

Judge