

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 660 of 2017**

- Rohit Kumar Dewangan @ Kalki, S/o Late Kanshiram Dewangan, Aged About 22 Years, R/o Shivpuri, Ward No. 15, Jamul, Police Station Jamul, District Durg, Chhattisgarh.

---- Appellant**Versus**

- State of Chhattisgarh, Through : Police Station Jamul, District Durg, Chhattisgarh.

---- Respondent

For Appellant	:	Ms. Smriti Shrivastava and Mr. Tarun Dansena Advocates.
For Respondent	:	Mr. Ghanshyam Patel, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****30/07/2021**

1. This appeal has been preferred against the judgment dated 24/03/2017 passed in Sessions Trial No. 15/2016 by the Sessions Judge, Durg, District Durg (C.G.), whereby the appellant has been convicted under Sections 450 and 307 of the Indian Penal Code and sentenced to undergo R.I. for 5 years and to pay fine of Rs. 100/-; and R.I. for 7 years and fine of Rs.200/- respectively with default stipulation.

2. According to case of the prosecution, at the relevant time, victim/complainant Rekhram Banchhor was the Chairman of Nagar Palika Parishad, Jamul. On 19.10.2015, at about 3:00 PM, when he was seating in his chamber alongwith one Nilkanth Nirmalkar, present appellant entered in his chamber and inquired about construction/installation of '*sulabh nal*'. Then victim/complainant advised the appellant to meet one Sonu Dewangan and complete the formalities but the appellant informed him that he has already constructed the '*sulabh*', on that the victim/complainant directed the appellant to fill the form and then the formalities will be over. Thereafter, the appellant came out from the chamber and after sometime in a very agitated manner entered again in the chamber with a prickly/sharp curve object and with intention to kill the victim, started assaulting him. That, on shouting, Nilkanth, driver Sanjay Sahu and other employee caught hold the appellant. Thereafter, victim was admitted in the hospital. Thereafter, matter was reported. Statement of the victim and other witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet was filed. Trial Court framed the charges. To prove the guilt of the accused/appellant, prosecution has examined as many as 11 witnesses. 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 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. Ms. Smriti Shrivastava, learned Counsel appearing for the appellant submits that she does not want to press this appeal on merits and confines her argument to the sentence part only. She further submits that the appellant has undergone about 6 years out of total jail sentence of 7 years, he has no criminal antecedent and he is facing the *lis* since 2015, therefore, she 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 7 years, the appellant has undergone about 6 years, he is facing the *lis* since 2015 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 sentenced 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