

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 920 of 2017

- Basant Kumar, S/o Janpad Ram Rathiya, Aged About 26 Years, R/o Village Rilo, Police Station Chhal, District Raigarh, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through Station House Office, Police Station Chhal, District Raigarh, Chhattisgarh.

---- Respondent

For Appellant : Ms. Smriti Shrivastava, Advocate.

For State/Respondent : Shri Ravi Maheshwari, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

23/07/2021

1. This appeal has been preferred against the impugned judgment dated 25/02/2017 passed in S.T. No.155/2016 by the Third Additional Sessions Judge to the Court of First Additional Sessions Judge, District – Raigarh, (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 3 years and fine of Rs.5,000/- with default stipulations.

2. According to the case of the prosecution, complainant/injured Mohanlal Gabel (PW-2) was constructing house at Village Rilo and on 21.08.2016 at about 2:30 P.M., he went to see his under-construction house, where Rai Singh (PW-3) and Patiram (PW-4) were present and were taking, mason Harvansh Yadav (PW-6) was also working there, at that time accused/appellant came there from backside and due to previous enmity, assaulted Mohanlal Gabel with the help of *tangi* (axe), due to which, Mohanlal Gabel sustained injuries. The incident was reported by daughter of the injured namely Varsha Gabel (PW-1). On the basis of the said, offence was registered. Statement of the witnesses were recorded under Section 161 of Cr.P.C. After completion of the investigation, a charge-sheet was filed. 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 his 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. A certificate of incarceration sent by the O/o Jail Superintendent, District Jail, Raigarh, (C.G.) would mention that appellant has been released from jail on 21/08/2019 after completion of jail sentence imposed by the trial Court.

5. 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. Independent witnesses have not supported the case of the prosecution. There are material contradictions and omissions occurred in the statement of the complainant and other witnesses despite of that trial Court has convicted the appellant. Therefore, conviction of the appellant is not sustainable.
6. I have heard learned Counsel appearing for the parties, perused the record, statements of the witnesses and other annexed documents minutely.
7. Mohanlal Gabel (PW-2) in his Court statement has deposed according to the case of prosecution. He also remained firm during his cross-examination. His statement is duly corroborated by the statements of Raisingh (PW-3) and Harvansh Singh (PW-6). Medical report of the victim/complainant also corroborated his statement.
8. On a minute examination of the evidence adduced by the prosecution, it is clear that there is sufficient evidence against the appellant to hold him guilty. In my considered view, the trial Court has rightly convicted the appellant.
9. Consequently, the appeal has no merit and is, therefore, dismissed.

Sd/-
(Arvind Singh Chandel)
Judge