

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 1024 of 2018

- Sanjay Kumar Sahu S/o Late Chhatram Sahu Aged About 25 Years R/o Jungle Side Telsara Road, P. S. Banki Mongara, District Korba, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Banki Mongara, District Korba, Chhattisgarh.

---- Respondent

For Appellant	:Mr. BM Rao, Advocate.
For State/Respondent	:Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

19.08.2021

1. This appeal has been preferred against the judgment dated 27.06.2018, passed in Special Criminal Case No. 07/2016 by the learned Special Judge(SC/ST Prevention of Atrocities) Act, Korba, Distt. Korba (C.G.) wherein, the Appellant has been convicted for the offence punishable under Sections 458 & 307 of the IPC and sentenced to undergo RI for 5 years and to pay fine of Rs. 500/- and RI for 10 years and to pay fine of Rs. 5,000/- respectively, with default stipulations.
2. According to the case of prosecution, on 21.12.2015 at around 7:30 PM, when victim Rajni Koshle (PW-5) was alone in her house at that time, the Appellant un-authorizely entered

from backside in the house of the victim and thereafter due to some previous dispute, he assaulted her with the help of sickle due to which, she sustained injuries on her neck, head and other parts of the body. Thereafter, the matter was reported on 22.12.2015 vide Ex.P-5 by father of the victim Resham Lal (PW-4). The victim was medically examined by Dr. Brijlal Kawachi (PW-15) and Dr. BK Jhalariya (PW-16). On the basis of above, offence has been registered against the Appellant. Later on, statements of injured person and witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, charge-sheet was filed by the Police. Trial Court framed the charges against the Appellant. To robe the Appellant in the crime-in-question, the prosecution has examined as many as 18 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 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 prosecution agency has failed to prove the guilt of the Appellant beyond all reasonable doubts. He further submits that children of the victim have not been examined by the

prosecution before the Trial Court. There are material contradictions and omissions occurred in the statement of the victim, therefore, her statements is not reliable. Other prosecution witnesses of the case have not supported the case of prosecution, therefore, conviction of the Appellant is not sustainable. Alternatively, the Counsel further submits that the Appellant in jail since 15.07.2015, he has no criminal antecedent and he is facing the /is since 2015. If the conviction of the Appellant may be affirmed, it is prayed that the sentence awarded to the Appellant may be reduced to the period already undergone by him.

5. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment of conviction.
6. I have heard learned counsel appearing on behalf of the parties and perused the record. I have also gone through the statements of the witnesses minutely.
7. In her Court statement, victim Rajni Koshle (PW-5) supported the entire case of prosecution and deposed accordingly. She categorically stated that at the time of incident, when she was alone in her house, the Appellant entered from backside of the house and assaulted her with the help of sickle due to which, she sustained various injuries on her body. Though, there are some material contradictions and omissions occurred in her statement, but they are not material. She was

assaulted by the Appellant with the help of sickle, on this point this witness remain firmed during her cross-examination. There is nothing on record on the basis of which her statement can be disbelieved. Her statement is also duly corroborated by the medical evidence. Rajkumar Sahu (PW-1), supported the statement of the victim and deposed that on the date of incident, son of the victim has told him that her mother was assaulted by someone on which he and 3-4 neighbors went to the spot, they saw that the victim was laying down on floor in injured condition thereafter they took her to the hospital where she underwent for treatment. Father of the victim Reshamlal (PW-4) who lodged the FIR also deposed that when he heard about the incident, he went to the hospital where the victim was underwent for treatment, on being asked by him to the victim, she disclosed that she was assaulted by the Appellant.

8. Looking to the statements of the above witnesses and evidence available on record which is duly corroborated by medical evidence. In my considered view, the Trial Court has rightly convicted the Appellant.
9. The conviction of the Appellant under Sections 458 & 307 of the IPC is affirmed and with regard to the sentence part, considering the fact that he Appellant in jail since 15.07.2015, he has no criminal antecedent and he is facing the *lis* since 2015. 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 to the period already undergone by him. The fine sentence for the above offence is also affirmed.

10. Consequently, the appeal is partly allowed.

11. 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