

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 1512 of 2015

- Munu @ Ram Avtar S/o Ramdhan Sidar Aged About 30 Years R/o Village Bayang, P.S. Kotra Road, Distt. Raigarh, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through P.S. Kotra Road, Distt. Raigarh, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Vineet Kumar Pandey, Advocate.
For State/Respondent	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

28.01.2021

1. This appeal has been preferred against the judgment dated 09.10.2015 passed in Session Trial No.62/2015 passed by learned 2nd Additional Sessions Judge, Raigarh (C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 304 Part-II and Section 324 of the IPC and sentenced to undergo R.I. for 10 years and to pay fine of Rs.2,000/- and R.I. for 1 year and to pay fine of Rs.500/- respectively, with default stipulations. Both the sentences to run concurrently.
2. In this case, the name of the deceased is Khemanidhi Sidar who was the neighbor of the Appellant. On 05.03.2015, the Appellant asked the deceased to change the channel on television due to that a quarrel took place between them and the Appellant put the deceased on the floor and assaulted him with hands and fist on account of that the deceased got injuries and become unconscious. Thereafter, family members of the deceased taken

the deceased to Hospital where during course of treatment on 07.03.2015, the deceased died. Thereafter, morgue was lodged and postmortem of the deceased was conducted. On the basis of morgue report, FIR has been lodged. Statements of witnesses have been recorded. After completion of investigation, charge-sheet was filed against the Appellant for the offence punishable under Section 302 & 449 of the IPC. To robe the Appellant in the crime-in-question, prosecution has examined as many as 14 witnesses. In the statement of Appellant recorded under Section 313 of Cr.P.C, Appellant has pleaded his innocence and false implication in the matter, however one defence witness was examined by the Appellant. After completion of trial, Trial Court convicted and sentenced the Appellant as mentioned in Para 01 of this judgment. Hence, this appeal.

3. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that on the date of incident, suddenly a quarrel took place between the Appellant and the deceased, due to that a simple fight has been occurred between them unfortunately the deceased has died. There was no previous enmity between them. Since, the Appellant has no intension to commit murder of the deceased and in the matter, the Appellant has already undergone about six years, he has no criminal antecedent and he is facing the *lis* since 2015. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
4. On the contrary, learned State Counsel opposes the appeal and supported the impugned judgment.

5. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 10 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 sentence awarded to him punishable under Section 304 Part-II of the IPC is reduced to 8 years from 10 years and the fine amount with default stipulation is affirmed. Offence punishable under Section 324 of the IPC and sentenced to undergo R.I. for 1 year and to pay fine of Rs.500/-, with default stipulation is also affirmed.
7. Consequently, the appeal is partly allowed. The sentence of the Appellant under Section 304 Part-II of the IPC is reduced to 8 years from 10 years and the fine amount with default stipulation is affirmed. Conviction under Section 324 of the IPC and sentenced to undergo R.I. for 1 year and to pay fine of Rs.500/-, with default stipulation is also affirmed.
8. 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