

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 340 of 2017

- Lodha @ Mansingh Manjhawar S/o Vidur Say Aged About 50 Years R/o Village- Ghonchal Bhojpur Police Station Kapu, District Raigarh, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Police Station- Kapu, District- Raigarh, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Arjun Lal Singroul, Advocate.
For Respondent/State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

05/08/2021

1. With the consent of both the parties, the matter is heard finally.
2. By the impugned judgment dated 28/12/2016 passed in S.T. No. 64/2016 by the learned 5th Additional Sessions Judge, Raigarh, District Raigarh(C.G.), the Appellant has been convicted for the offence punishable under Section 307 of the IPC and sentenced to undergo rigorous imprisonment for 5 years and to pay fine of Rs. 1,000/-, with default stipulation.
3. According to the case of prosecution on 26.02.2016 at around 12 PM, when complainant Satyabhama was sitting in her shop at that time the Appellant came to her and demanded Rs. 50 when she refused,

a dispute was taken place between them and the Appellant assaulted the complainant with the help of axe due to which she sustained injuries. On the basis of above, the matter was reported by complainant Satyabhama. Later on statement of the complainant and other witnesses were recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet has been filed and the Trial Court has framed the charges. To prove the guilt of the Appellant, the prosecution has examined as many as 13 witnesses. No defense witness has been examined by the Appellant. Statement of the Appellant under Section 313 of the Cr.P.C. was recorded, wherein he has pleaded his innocence and false implication in the matter.

4. After trial, the Trial Court has convicted and sentenced the Appellant as mentioned in paragraph two of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellant would submit that without being any clinching and reliable evidence available on record the Trial Court has convicted the Appellant. He further submits that there are material contradiction and omissions occurred in the statement of the witnesses and by ignoring these facts, the Trial Court has wrongly convicted the Appellant. Therefore, conviction of the Appellant is not sustainable.
6. Learned Counsel appearing for the State opposed the appeal and supported the impugned judgment of conviction.
7. I have heard learned Counsel appearing for the parties and perused the record to assess the correctness of the impugned judgment of conviction. I have also gone through the statements of the witnesses.

8. In her Court statement complainant Satyabhama (PW-4) supported the entire case of prosecution and deposed accordingly. She categorically stated that at the time of incident, the Appellant came to her and demanded Rs. 50 and when she refused to give money, the Appellant assaulted her with the help of axe due to which she sustained injuries on her neck. This witness remain firmed during her cross-examination. Immediately after the incident, she narrated the entire incident to Mamta Behra (PW-2) and Sudarshan Behra (PW-7), both these witnesses have supported the statement of Satyabhama (PW-4). Hourishankar (PW-10) also supported the statement of Satyabhama (PW-4) and deposed that when he reached the spot, he saw that Satyabhama was lying on ground in injured condition and the Appellant was present on spot. According to this witness, immediately after the incident, the Appellant was fled away from the spot. The above statement of this witness has not been duly rebutted during his cross-examination. The medical evidence of Satyabhama (PW-4) also corroborated her statement.
9. From the evidence available on record and looking to the entire case of prosecution there is sufficient evidence available on record against the Appellant and the crime has duly proved against him. In my considered view, the Trial Court has rightly convicted the Appellant.
10. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge