

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 619 of 2017

- Rakesh Yadav, S/o Mohan Lal, Aged about 38 years, R/o Shanker Nagar, Near Chuchuieya para fatah, English Railway School, Banglayard, Tarbahar, PS Tarbahar, District Bilaspur (C.G.).

---- Appellant

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station- Tarbahar, District Bilaspur (C.G.).

---- Respondent

For Appellant	:	Ms. Smita Jha, Advocate.
For Respondent/State	:	Mr. Sushil Sahu, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

02/07/2021

1. By the impugned judgment dated 20.08.2014 passed in Sessions Trial No. 38/2014 by the learned Sessions Judge, Bilaspur (C.G.), the Appellant has been convicted for the offence punishable under Section 304 Part-II of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 10 years, and to pay fine of Rs. 500/- with default stipulation.
2. In this case, the name of the deceased is Jaya Yadav who was at the time of incident aged about 07 years and the Appellant is the uncle of the deceased. According to the case of prosecution, father of Jaya Yadav/deceased is in jail and she was residing with her mother and

other family members along with the Appellant in the same house. On 31.12.2013 at about 11:00 AM, the Appellant bring a glass of water from the deceased but the deceased avoid to obey his order, therefore, the Appellant slapped on her face and threshed her head on the ground, due to that, she sustained injury on her head and became unconscious. Thereafter, the Appellant fled away from the spot. The deceased was taken to the hospital where the Doctor declared her dead. On the basis of above, offence has been registered against the Appellant. Later on statements of witnesses recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed by the Police under Section 302 of IPC. Trial Court framed the charges against the Appellant. To robe the Appellant in the crime-in-question, the prosecution has examined as many as 10 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. After completion of trial, Trial Court convicted and sentenced the Appellant as mentioned in Para one 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 the Appellant is in jail since 02.01.2014 and completed more than 7 years 6 months out of 10 years of jail sentence, he has no criminal antecedent and facing the *lis* for last seven and half years. 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 opposed 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 the fact that the Appellant is in jail since 02.01.2014 and completed more than 7 years 6 months out of 10 years of jail sentence, he has no criminal antecedent and facing the /is for last seven and half years. 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.
7. Consequently, the appeal is partly allowed. The conviction of the Appellant under Section 304 Part-II of the IPC is affirmed and against the conviction he is sentenced to the period already undergone by him. The fine sentence for the above offence is also affirmed.
8. It is reported that the Appellant is in jail, he be released forthwith if not required in any other case.
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