

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 771 of 2015

- Jagru, S/o Massu Muriya, Aged About 35 Years R/o Naktikotpara Aasna, Police Station Kotwali, Jagdalpur, Civil And Rev. Distt. Bastar, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through The Police Station Kotwali, Civil And Rev. Distt. Bastar, Chhattisgarh.

---- Respondent

For Appellant : Shri Vijay Kumar Sahu, Advocate.

For State/Respondent : Shri Ghanshyam Patel, Govt. Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

04/02/2021

1. This appeal has been preferred against the impugned judgment dated 25/07/2014 passed in S.T. No.55/2014 by the 3rd Additional Sessions Judge, Bastar, Jagdalpur, (C.G.) wherein appellant has been convicted and sentenced under Section 307 of the I.P.C. and sentenced to undergo R.I. for five years and fine of Rs.500/- with default stipulations.
2. According to the case of prosecution, on 21/04/2014 at around 8:00 PM present appellant was abusing in filthy language in front of house of the complainant Maansingh (PW-1) in the state of intoxication. When Maansingh (PW-1) opposed the same, then appellant came

there lashed with an axe and assaulted the complainant on his head with axe due to which he sustained injuries on his head and other parts of the body. Matter was reported by complainant Maansingh (PW-1) and on the basis of the said F.I.R. i.e. Ex.P-7 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 11 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 Jail Superintendent, Central Jail, Jagdalpur, (C.G.) would mention that appellant has been released from jail on 01/08/2017 after completion of his entire jail sentence imposed upon him 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. He further submits that trial Court has wrongly convicted the appellant without there being sufficient and clinching evidence against him. There are material contradictions and omissions occurred in the statements of prosecution witnesses and the said fact has not been appreciated by the trial Court. Therefore, conviction of the appellant is

not sustainable.

6. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
7. I have heard learned Counsel appearing for the parties, perused the materials available on record and statement of the witnesses.
8. Maansingh (PW-1) in his Court statement has supported the entire case of the prosecution and he has categorically stated that at the time of incident, appellant assaulted him on his head with an axe due to which he sustained injuries. The incident was witnessed by daughter of the complainant namely Somwari (PW-6). The above statement of complainant was duly supported by eye-witness Somwari (PW-6). Both the above witnesses have remained firm during their cross-examination. Though there are some material contradictions and omissions occurred in their statements but they are not material. Bhano (PW-2) wife of the injured Maansingh (PW-1) has also supported the case of the prosecution. Immediately, after the incident, Mahadev (PW-3) reached the spot and saw Maansingh (PW-1) in injured condition. After the incident, matter was immediately reported in the police station. Injured Maansingh (PW-1) was medically examined by Dr. K.K. Nag (PW-11). His report is Ex.P-15. According to the medical report, injured Maansingh (PW-1) sustained injuries of wound size 4.6 x 2.6 cm in the back side of parietal region which was caused by hard and blunt object. From the entire evidence adduced by the prosecution, it is well-established that Maansingh (PW-1) was

assaulted by the appellant due to which he sustained injuries on his head.

9. Looking to the entire 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.
10. Consequently, the appeal has no merit and is, therefore, dismissed.

**Sd/-
(Arvind Singh Chandel)
Judge**