

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 917 of 2015

- Narayan, S/o Heturam Yadaw, Aged About 48 Years, R/o Village- Loharsi, At Post- Pachpedhi, Police Station - Masturi, District - Bilaspur, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through Police Station Masturi, District- Bilaspur, Chhattisgarh.

---- Respondent

For Appellant : Shri Basant Dewangan, Advocate.
For State/Respondent : Shri H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

04/02/2021

1. This appeal has been preferred against the impugned judgment dated 21/3/2013 passed in S.T. No.196/12 by the 1st Additional Sessions Judge of 3rd Additional Sessions Judge, Bilaspur, District Bilaspur, (C.G.) wherein appellant has been convicted and sentenced as under :

<u>Conviction</u>	<u>Sentence</u>
U/s 307 of the I.P.C.	R.I. for 5 years and fine of Rs.100/- with default stipulations.

2. According to the case of prosecution, on 04/11/2012 at around 5:00

am, while complainant was going with other villagers of *kirtan mandali* singing bhajan and when he arrived near Prakash Medical Store Square of the village, accused/appellant came there and abused complainant using filthy words and threatened the complainant to kill. He then assaulted on the head of complainant with club, due to which complainant sustained injuries. The said incident was witnessed by Ganesh Ram Gond (PW-6), Rakesh Yadav (PW-3) and one Rajesh. Matter was reported by complainant Motilal Nirmalkar (PW-4) vide Ex.P-3. Thereafter, complainant was medically examined. 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 10 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, Bilaspur, (C.G.) would mention that appellant has been released from jail on 28/01/2016 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 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. Injured Motilal Nirmalkar (PW-4) was medically examined by Dr. B.P. Kurre (PW-1). His medical examination report is Ex.P-1. At the time of medical examination of the injured Motilal, total three injuries were found, out of which two injuries were found on his head. C.T. Scan of the appellant was conducted by Dr. Archana Singh. According to C.T. Scan report, injuries found on the head of the appellant is of grievous nature. Motilal Nirmalkar (PW-4) in his Court statement has supported the entire case of the prosecution. He has categorically stated that at the time of incident, while he was going with other villagers of *kirtan mandali* singing bhajan and when he arrived near Prakash Medical Store Square of the village, accused/appellant came there and abused him and assaulted him on his head with club, due to which he sustained injuries. Chhatram Nirmalkar (PW-2) and Rakesh Kumar Yadav (PW-3) both eye-witness have also supported the above statement of Motilal Nirmalkar (PW-4). All 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. From the entire evidence adduced by the prosecution, it is well-established that Motilal Nirmalkar (PW-4) was assaulted by the appellant due to which he sustained grievous 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