

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 857 of 2017

- Tibbat Ram Rathiya @ Gidwa Ekka S/o Mungul Sai, Aged About 31 Years R/o Village Dahidand, Police Station Dharamjaigarh, District Raigarh, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Dharamjaigarh, District Raigarh, Chhattisgarh.

---- Respondent

For Appellant	:Mr. Amit Singh, Advocate.
For State/Respondent	:Mr. Susheel Sahu Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

27.07.2021

1. This appeal has been preferred against the judgment dated 04.03.2017 passed in Session Trial No.35/2017 by the learned First Additional Sessions Judge, Raigarh, Distt. Raigarh(C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 307 of the IPC and sentenced to undergo RI for 7 years and to pay fine of Rs. 500/-, with default stipulation.
2. According to the case of prosecution, on 31.10.2016, complainant Sushil told the Appellant for doing some work in his field, the Appellant denied the same. Thereafter, the complainant went alone in his field and at the evening, he returned to his house. The Appellant came to his house for

drinking wine when the complainant refused to give him wine at that point of time the Appellant returned and after some time, the Appellant again came to the house of the complainant and assaulted him with the help of axe, due to which the complainant sustained injuries. On the basis of above, the matter was reported by Rafel Toppo (PW-6). Later on statements of the complainant and witnesses recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed by the Police. Trial Court framed the charges against the Appellant. To prove the Appellant in the crime-in-question, the prosecution has examined as many as 8 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, the 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 the Appellant is in jail since 02.11.2016 and completed about 4 years 9 months out of 7 years of jail sentence, he has no criminal antecedent and he is facing the *lis* since 2016. Therefore, the jail sentence awarded to him 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 02.11.2016 and completed about 4 years 9 months out of 7 years of jail sentence, he has no criminal antecedent and he is facing the *lis* since 2016. 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 307 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. 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