

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 362 of 2016

Sudhram @ Sudhram S/o Jairam Majhwar, aged about 20 years, R/o Village - Maaja, P.S. Lakhanpur, District - Surguja Chhattisgarh.

---- Appellant

Versus

State of Chhattisgarh through Police Station: Lakhanpur, District - Surguja Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Arvind Sinha, Advocate
For State/Respondent	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

16.06.2021

1. This appeal has been preferred against the judgment dated 27.02.2016 passed in S.T. No. 97 of 2015 by the learned Sessions Judge, Ambikapur, District: Surguja (Chhattisgarh) wherein, the Appellant has been convicted as mentioned below:

Conviction	Sentence	In Default
U/s 304 (II) of IPC	RI for 07 years and fine amount of Rs.500/-.	In default of payment of fine amount additional RI for 01 month.
U/s 323 of IPC	RI for 01 month.	
Both the sentence are run concurrently		

2. According to the case of prosecution, in the midnight between 12:00 to 01:00 A.M. a dispute took place between the Appellant and Budhram. At that time, the Appellant beaten Budhram with the help of wooden stick. The wife of Budhram namely Pramila came there and tried to solve the matter but, the Appellant also assaulted her. The Appellant also dashed wooden stick on the head of minor child Bifalram due to which the child died. The matter was reported by Pramila vide Exhibit-P/1. After completion of investigation, charge-sheet was filed by the police. To robe the Appellant in the crime-in-question prosecution examined as many as total 08 witnesses. In the statement of Appellant recorded under Section 313 of Cr.P.C, Appellant 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 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 21.05.2015 and has completed 06 years jail sentence out of 07 years jail sentence imposed upon him by the concerned Trial Court, he has no criminal antecedent and he is facing the *lis* since 2015. Therefore, it is prayed by counsel that 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 that the Appellant has completed 06 years jail sentence out of 07 years jail sentence imposed upon him by the Trial Court, he is facing the *lis* since 2015 and there is no criminal antecedent against him, 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 the aforementioned section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is 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