

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 1051 of 2017

- Devsharan Singh S/o Late Jaipal Singh, Aged About 35 Years
R/o Village Mendra, Police Station Jhagrakhand, District Koriya,
Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through District Magistrate, District Koriya,
Chhattisgarh.

---- Respondent

For Appellant	:Mr. Keshav Dewangan, Advocate.
For State/Respondent	:Mr. Akhtar Hussain, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

08.07.2021

1. This appeal has been preferred against the judgment dated 09.05.2017 passed in Sessions Trial No.61/2015 by the learned IInd Additional Sessions Judge, Manendragarh, Distt. Koriya (C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 304 Part I of the IPC and sentenced to undergo RI for 10 years and to pay fine of Rs. 1,000/-, with default stipulation.
2. In this case, deceased Indra Kuwar was wife of the Appellant. According to the case of prosecution, on 25.04.2015 at around 10 AM, both Appellant and the deceased went to the house of one Balraj Singh (PW-1), in courtyard of Balraj Singh, a quarrel has taken place between the Appellant and

the deceased for consumption of liquor. Allegedly, at that time the Appellant assaulted the deceased with the help of club due to which the deceased sustained injuries on her body. She died while taking her to hospital Manendragarh. FIR has been lodged by daughter of the Appellant namely Ku. Kalawati (PW-2). Later on statements of 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 robe the Appellant in the crime-in-question, the prosecution has examined as many as 17 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 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 suddenly in a fit of rage, the alleged incident was occurred. the Appellant has already completed 6 years 4 months out of 10 years of jail sentence, he has no criminal antecedent and has facing the *lis* since 2015. The Counsel lastly submits that the Appellant is the soul caretaker of his children, therefore, it is prayed that the jail sentence awarded to the Appellant may

be reduced to the period already undergone by him or may be reduced to some extent.

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 the soul caretaker of his children, suddenly in a fit of rage, the alleged incident was occurred, the Appellant has already completed 6 years 4 months out of 10 years of jail sentence, he has no criminal antecedent and has facing the *lis* since 2015. Looking to the above facts, I am of the view that the end of justice would be met if the conviction of the Appellant for the offence punishable under Section 304 Part I of the IPC is reduced from 10 years to 7 years 6 months and the fine sentence is affirmed.
7. Accordingly, the appeal is partly allowed.
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