CGHC010308032017 2026:CGHC:43533

SUMIT KUMAR Digitally signed by SUMIT KUMAR Date: 2026.10.08 11:13:39 +0530

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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1474 of 2017

Triloki Patel S/o Dukaluram Patel, Aged About 45 Years R/o Village Kirwai, Police Station Rajim, District Gariyaband, Chhattisgarh., Chhattisgarh

... Appellant

versus

State Of Chhattisgarh Through Police Station Rajim, District Gariyaband, Chhattisgarh., Chhattisgarh

... Respondent(s)

For Appellant	:	Mr. Suresh Tandon, Advocate
For Respondent	:	Ms. Supriya Upasane, G.A.

(Hon'ble Shri Justice Ravindra Kumar Agrawal, J.)

Order on Board

07/10/2026

1. Heard.

2. Present is a criminal appeal under Section 374(2) of the Code of Criminal Procedure, 1973 filed by the appellant against the impugned judgment of conviction and sentence dated 31.08.2017 passed by learned Additional Sessions Judge, Gariyaband in Sessions Case No. 58/2014, whereby the appellant has been convicted and sentenced in the following manner:

CONVICTION		**SENTENCE**
U/s 325 of the IPC	:	R.I. for 2 years and fine of Rs. 1000/- and in default of payment of fine two months R.I. in addition
U/s 341 of IPC	:	Fine of Rs. 500/- and in default of payment of fine 15 days R.I. in addition

3. The case of the prosecution in brief is that the complainant Prahlad Sahu, PW-2, husband of the injured, lodged a report to the police on 30.07.2014 that at about 1:30 PM, when he alongwith his wife returning from their work, near shop of the accused, he restrained them and on the issue of the outstanding amount of his shop, he dragged his wife towards his house and assaulted her by danda by which his wife received injuries on her head and hand, she went in unconscious. When he reached there, the appellant ran away from the place. With the help of one Chhannu Ram Sahu, he took his wife to the hospital and lodged the report. The FIR (Exhibit P-2) was registered against the appellant for the offence under Section 341 and 307 of IPC. The injured Smt. Buddhi Bai was sent for her medical examination to the Community Health Centre, Rajim, where she was medically examined by PW-5, Dr. Gopal Kela who after her medical examination found swelling and deformity with lacerated wound on left wrist and lacerated wound on left parietal region of head. She was referred for further treatment to Medical College Hospital, Raipur and gave his report (Exhibit P-4). A query was raised by the police from the doctor about nature and impact of the injury, then the doctor has given query report (Exhibit P-5) that the injured Buddhi Bai may have died if she was not being treated in time and with respect to nature of injury, he opined that

without examining her internal injury, opinion about nature of injury could not be given. When the injured Buddhi Bai was admitted to the hospital, the police had also tried to record her statement but the doctor has opined that she was unable to give statement and gave the report (Exhibit P-7). Blood stained, plain soil and broken pieces of bangles have been seized from the spot vide seizure memo (Exhibit P-11). The blouse of the injured has also been seized vide seizure memo (Exhibit P-1). Spot map (Exhibit P-8) was prepared by the police. On 29.10.2014, when the police raised a query from the doctor of Dr. B.R. Ambedkar Hospital, Raipur about the nature of injury found on the body of the injured, the doctor has reported that the patient was absconded with file and not taken any treatment, even investigation was not done. NCCT of the head was advised but the patient did not undergo the investigation, which is in the report (Exhibit P-20). Spot map (Exhibit P-23) was prepared by the Patwari. The police has also obtained the X-ray report of the injured Buddhi Bai (Exhibit P-24), in which fracture of distal end of left radius bone was found. The appellant was arrested on 31.07.2014 and his memorandum statement (Exhibit P-9) was recorded. Based on his memorandum statement, one bamboo club has been seized vide seizure memo (Exhibit P-10). The said bamboo club seized from the appellant was sent for its query report to the doctor who opined that the injury found on the body of the injured Buddhi Bai could be caused by the said danda and for confirmation of presence of blood was referred for FSL examination, he gave his query report (Exhibit P-6). The blood stained and plain soil seized from the spot, bamboo club seized from the appellant and blouse of the injured Buddhi Bai were sent for its chemical examination to State FSL, Raipur,

from where report (Exhibit P-18) was received and as per the FSL report, blood has been found on the blood-stained soil, danda seized from the appellant and blouse of the injured. Statements of the witnesses under Section 161 of CrPC have been recorded and after completion of usual investigation, charge sheet has been filed against the appellant for the offence under Section 341, 307 of IPC before the learned Judicial Magistrate First Class, Rajim. The case was committed to the learned trial Court for its trial. The learned trial Court has framed charges against the appellant for the offence under Section 341, 307 of IPC. The appellant denied the charges and claimed trial.

4. In order to prove the charge against the appellant, the prosecution has examined as many as 13 witnesses. Statement of the appellant under Section 313 of CrPC have also been recorded in which he denied the circumstances that appears against him, pleaded innocence and have submitted that he has been falsely implicated in the offence. The appellant has also examined two defence witnesses, Ganga Ram Sahu, DW-1 and Dhani Ram Sahu, DW-2, in his defence.

5. After appreciation of oral as well as documentary evidence led by the prosecution, the learned trial Court has convicted and sentenced the appellant as has been mentioned in the earlier part of this judgment. Hence, this appeal.

6. Learned counsel appearing for the appellant would submit that the appellant is not challenging his conviction for the offence under Section 325 and 341 of IPC. However, he has challenged the sentence part of the judgment. The offence of Section 325 and 341 of IPC does not provide for any minimum sentence. The appellant has been sentenced

for R.I. for two years with a fine and a default stipulation, for the offence punishable under Section 325 of the IPC. For the offence punishable under Section 341 of the IPC, the appellant has been sentenced to pay a fine of Rs. 500 with a default stipulation. The appellant has already remained in jail for about 1 month and 8 days and there is no previous criminal antecedent of the applicant, he was aged about 45 years at the date of alleged incident and having innumerable responsibility of his family. Looking to the surrounding circumstances and the genesis of the offence, his sentence may be reduced for the period already undergone by him by enhancing the fine amount suitably.

7. On the other hand, learned counsel appearing for the State opposes the submissions made by learned counsel for the appellant and have submitted that looking to the nature of injuries, the manner in which the injured was being assaulted by the appellant, the learned trial Court has already taken a lenient view by altering the conviction of the appellant from the offence of Section 307 to Section 325 of IPC and very less sentence has been awarded to the appellant. In view of the facts and circumstances of the case, the appellant is not entitled for any further leniency and his appeal is liable to be dismissed.

8. I have heard learned counsel for the parties and perused the record of the learned trial Court.

9. Although, the appellant is not challenging his conviction for the offence under Section 325 of IPC, however, this Court deemed it appropriate to examine the evidence available on record before concluding the conviction of the appellant. PW-1, Buddhi Bai is the injured. She stated in her evidence that on the date of incident at about 1:30–2:00 PM,

when she alongwith her husband returning from their work, near the house of the appellant, he demanded his money back which was outstanding towards purchase of the grocery items from his shop. When she replied that after harvesting the paddy crop, she would pay the outstanding amount, the appellant dragged her towards his house and assaulted her by danda. After hearing her cries, her husband also came there and by abusing them, the appellant ran away. She lost her conscious and she was being taken to hospital and thereafter her husband lodged the report. In cross-examination, she remained firm in saying that it is the appellant who caused injuries to her when she was returning back to her house after their work. She specifically denied the suggestion given by the defence that she received injury by falling on the floor. She fairly admitted that she had an outstanding amount of Rs. 700 at the time of marriage ceremony of her daughter but she already repaid it. From her entire evidence, the defence could not elicit any material so that her evidence could be disbelieved.

10. The evidence of PW-1 Buddhi Bai is supported by the evidence of her husband Prahlad Sahu, PW-2. He too have stated to be eyewitness to the incident and at the time of incident, he alongwith his wife, injured, PW-1, coming back to their house. His wife is some short ahead from him. As and when they reached near the house of the appellant, he started assaulting his wife. He saw the assault made by the appellant upon his wife and when he reached near her, the appellant ran away from there. His wife received injuries on her body and then he took her to hospital. In his detailed cross-examination, he too have remained firm in saying that it is the appellant who caused injuries to his wife by

danda. The appellant gave suggestion that there was an outstanding amount towards purchase of grocery items from his shop but this witness had admitted that there was an outstanding amount of the grocery items purchased from the shop of the appellant. The injury found on the body of the injured has been corroborated with the medical report of the injured which has been proved by PW-5, Dr. Gopal Kela who initially treated her at Community Health Centre, Rajim and found injury on her body. He gave the MLC report (Exhibit P-4) and for further treatment the injured was referred to Medical College Hospital, Raipur. Dr. Rahul Bawistale, PW-13, the radiologist who proved the X-ray report (Exhibit P-24). He found fracture injury on left radius bone of the injured. Though, in his cross-examination, he admitted that in the slip sent to him for conducting X-ray of the injured Buddhi Bai, her name was not there but in the X-ray report (Exhibit P-24), the name of the injured Buddhi Bai is there. From the evidence of this witness, it has also been proved that the injured Buddhi Bai received fracture injury on her left radius bone of hand. Though, no fracture injury was found on the head of the injured Buddhi Bai, however the fracture injury was found on the left radius bone.

11. When fracture injury was found on the left radius bone of the victim, the said injury falls within the scope of Section 325 of the IPC as the fracture injury comes under the grievous injury as defined under Section 320 of the IPC. Therefore, this Court finds no any illegality or perversity in convicting the appellant for the offence under Section 325 and 341 of IPC, and therefore, the conviction of the appellant for the said offences are hereby affirmed.

12. So far as the sentence awarded to the appellant is concerned, the Hon'ble Supreme Court in the matter of ***Raj Bala Vs. State of Haryana & Others, (2016) 1 SCC 463*** in paragraph 1 & 2, held as under:-

> *"**1**. In Gopal Singh v. State of Uttrakhand, while focusing on the gravity of the crime and the concept of proportionality as regards the punishment, the Court had observed:-*
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> > *"18. Just punishment is the collective cry of the society. While the collective cry has to be kept uppermost in the mind, simultaneously the principle of proportionality between the crime and punishment cannot be totally brushed aside. The principle of just punishment is the bedrock of sentencing in respect of a criminal offence. A punishment should not be disproportionately excessive. The concept of proportionality allows a significant discretion to the Judge but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect - propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability of the doctrine of bringing the convict to the value-based social mainstream may be the guiding factors. Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner. We may hasten to add that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalised judicial discretion. Neither the personal perception of a Judge nor self-adhered moralistic vision nor hypothetical apprehensions should be allowed to have any play. For every offence, a drastic measure cannot be thought of. Similarly, an offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court. The real requisite is to weigh the circumstances in which*

the crime has been committed and other concomitant factors which we have indicated hereinbefore and also have been stated in a number of pronouncements by this Court. On such touchstone, the sentences are to be imposed. The discretion should not be in the realm of fancy. It should be embedded in the conceptual essence of just punishment."

***2**. Seven years prior to that, in Shailesh Jasvantbhai v. State of Gujarat, it has been held that:-*

"7. The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of "order" should meet the challenges confronting the society. Friedman in his Law in Changing Society stated that: "State of criminal law continues to be-as it should be-a decisive reflection of social consciousness of society." Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.

8. Therefore, undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law, and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the

> *offence and the manner in which it was executed or committed, etc. This position was illuminatingly stated by this Court in Sevaka Perumal v. State of T.N.[3]"*
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> *And again:- "The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and the victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal"."*

13. It would be apposite to refer to the observations made by the Hon'ble Supreme Court in the matter of ***Mohammad Giasuddin Vs. State of Andhra Pradesh reported in (1977) 3 SCC 287*** regarding the object of sentencing and the need to adopt a reformative approach. It has been observed in para 9 as follows :

> *"**9**.Western jurisprudes and sociologists. from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817 : "The laws of England are written in blood". Alfieri has suggested : 'society prepares the crime, the criminal commits it'. George Micodotis, Director of Criminological Research Center, Athens, Greece, maintains that 'crime is the result of the lack of the right kind of education'. If it is thus plain that crime is a pathological aberration. that the criminal can ordinarily be redeemed. that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by reculturisation. Therefore, the focus of interest in penology is the individual, and the goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore, consider a therapeutic, rather than an 'in terrorem' outlook, should prevail in our criminal courts. since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw : 'If you are to punish a man retributively, you must injure him. If you are to reform him,*

> *you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Jeoffrey Streatfield : "If you are going to have anything to do with the criminal Courts, you should see for yourself the conditions under which prisoners serve their sentences."*

14. Considering the nature of the injuries sustained by the injured, Buddhi Bai, the genesis of the offence, the manner in which the appellant assaulted the injured, the age of the appellant and the other surrounding circumstances, this Court deems it appropriate to alter the sentence awarded to the appellant, particularly as the offence punishable under Section 325 of the IPC does not prescribe any minimum sentence.

15. Accordingly, while maintaining the conviction of the appellant for the offences punishable under Sections 325 and 341 of the IPC, the sentence awarded to the appellant for the offence punishable under Section 325 of the IPC is reduced to the period already undergone by him. However, he shall pay an additional fine of Rs. 25,000/-, over and above the fine already imposed by the learned trial Court. Out of the total fine amount, a sum of Rs. 25,000/- shall be paid to the injured, Buddhi Bai, PW-1, as compensation under Section 395 of the BNSS, 2023. The aforesaid fine amount shall be deposited by the appellant within a period of three months from today, failing which he shall undergo rigorous imprisonment for a period of two months. The sentence awarded for the offence punishable under Section 341 of the IPC is maintained. The appellant is reported to be on bail. His bail bond shall remain in force for a further period of six months, as provided under Section 481 of the BNSS, 2023.

16. With the aforesaid modification in the sentence, the present appeal is **partly allowed**.

17. The trial Court record shall be sent back alongwith a copy of this judgment to the trial Court concerned for compliance and necessary action.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sumit