



2025:CGHC:248

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 844 of 2004**

- Udai Kumar S/o Basdev Yadav aged about 22 years, occupation – cultivation, R/o Village – Bhendri, Thana, Rajpur, District- Surguja, Chhattisgarh.

... Appellant**versus**

- State of Chhattisgarh, Through: the District Magistrate Surguja at Ambikapur, Chhattisgarh.

... Respondent

For Appellant : Mr. Vivek Tripathi, Adv. on behalf of
Mr. Awadh Tripathi, Adv.
For Respondent/State : Mr. Tarkeshwar Nande, P.L.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Judgment on Board****02/01/2025**

- 1 The present appeal arises out of the impugned judgment of conviction and order of sentence dated 17.09.2004 passed by the learned 1st Additional Sessions Judge, Ambikapur, Surguja (C.G.), in Sessions Trial No. 114/2004 whereby the learned Sessions Judge has convicted and sentenced the appellant as under :

Digitally signed by HEERA LAL SAHU Date: 2025.01.03 10:25:16 +0530
--

Conviction	Sentence
U/s 324 of IPC	Rigorous imprisonment for 6 months with fine of Rs. 1000/-, in default of payment of fine amount additional R.I. for 4 months.

- 2 The case of the prosecution, in brief, is that on 26.10.2003, the appellant went to the house of complainant Ram Surat (PW-1) along with Ram Sewak and Gopal to have a meal but in the house of the complainant some quarrel took place between the appellant and Gopal Ram, therefore, the complainant sent them to their respective house and due to aforesaid dispute appellant alleged to be beaten the servant of complainant namely Kaila Ram (PW-2) and the complainant saw that Kaila Ram was lying on the road and when he trying to brought Kaila Ram the appellant alleged to came there and caused injury on the left shoulder of the complainant by means of an axe. A report was made by the complainant vide Ex. P-1. After completion of the investigation charge sheet was filed against the appellant.
- 3 So as to hold the appellant guilty, the prosecution has examined as many as 8 witnesses and exhibited 18 documents. The statement of the appellant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing against him and pleaded innocence and false implication in the case.
- 4 After hearing the parties, vide impugned judgment of conviction and order of sentence dated 17.09.2004, learned Judge has convicted and sentenced the appellant for the offence as mentioned in para-1 of this judgment. Hence, the present appeal.
- 5 Learned counsel for the appellant submits that he is not pressing the appeal so far as it relates to the conviction

part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2003 and thereby more than 21 years have rolled by since then. At present, the appellant is aged about 43 years and he has already remained in jail for about 18 days, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

- 6 Per contra, learned counsel appearing for the State, supporting the impugned judgment, opposed the arguments advanced on behalf of the counsel for appellant.
- 7 Heard learned counsel for the parties and perused the material available on record including the impugned judgment.
- 8 Having gone through the material available on record and the evidence of the witnesses Ramsurat Yadav (PW-1), Kaila Ram (PW-2), Parsuram Bhagat (PW-3), Dr. Rajendra Banshraya (PW-4), Ramsundar (PW-5), Ramsewak (PW-6), Amarpal (PW-7) and M.P. Gupta (PW-8), establish the involvement of the appellant in the crime in question. This Court does not see any illegality in the findings recorded by the Trial Court as regards conviction of the appellant for the offence punishable under Section 324 of IPC.
- 9 As regards sentence, keeping in view the facts that the incident had taken place on 26.10.2003 about 21 years ago and further considering the facts and circumstances of the case and the appellant has already remained in jail for about 18 days, this court is of the opinion that the ends of justice would be served if he is sentenced to the period already undergone by him.

- 10 In view of the above consideration, I do not feel it appropriate to send back the appellant to jail. Hence, appellant is sentenced to the period already undergone by him instead of suffering rigorous imprisonment for 6 months for the offence punishable under Section 324 of IPC. However, the fine amount imposed upon the appellant by the Trial Court shall remain intact.
- 11 Consequently, the appeal is **allowed in part** to the extent indicated hereinabove.
- 12 Appellant is on bail. His bail bonds shall continue for a further period of 6 months as per requirement of Section 437-A of the Cr.P.C.
- 13 Record of the trial Court be sent back along with a copy of this judgment forthwith for information and necessary action, if any.

Sd/-
(Sanjay Kumar Jaiswal)
JUDGE

H.L. Sahu