



2025:CGHC:38789

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 762 of 2016**

Jhumuklal Patel S/o Rambharos Patel Aged About 54 Years R/o Village Aaroud
Chowki Halba P.S. Narharpur Revenue And Civil District North Bastar Kanker
Chhattisgarh , Chhattisgarh

Appellant**versus**

State Of Chhattisgarh Through Police Station Narharpur Distirct North Bastar
Kanker Chhattisgarh , Chhattisgarh

Respondent(s)**(Cause-title taken from Case Information System)**

For Appellant : Mr. Karan Kumar Baharani, Adv. appears on
behalf of Mr. Pravin Kumar Tulsiani, Advocate

For Respondent(s) : Ms. Isha Jajodia, PL

Hon'ble Shri Bibhu Datta Guru, Judge**Order on Board****05/08/2025**

1. This criminal appeal filed by the appellant under Section 374(2) of the Cr.P.C. is directed against the impugned judgment dated 17/06/2016, passed by the learned Additional Sessions Judge (FTC), Uttar Bastar, Kanker C.G. Sessions Case No. 106/2014, whereby the appellant has been convicted and sentenced as Under:-



Sentence	Conviction
U/s 325 of the IPC	R.I. for four years and fine of Rs.1000/-, with default stipulation.
U/s 294 of the IPC	RI for 2 months with fine of Rs. 100/- with default stipulation.

2. Case of the prosecution, is that, Complainant Puneetram Markam, lodged a First Information Report (Ex. P-5) at Police Station Narharpur, and reported that on 16.09.2014, he had gone to Charama, where he learned that the Deputy Sarpanch of village Araud, Ghasiram Patel, had been assaulted by Jhumuklal Patel (henceforth 'the Appellant'), a resident of the same village. When he saw Ghasiram Patel, the latter had injuries on his forehead and mouth. Upon inquiry, Ghasiram stated that while he was returning home through the street at around 2:30 in the afternoon, the Appellant, due to a prior rivalry concerning a social issue within the Patel community, abused him with obscene language targeting his mother and sister. He further threatened to kill him, and without provocation, struck him on the head and mouth with the back side of a tangia (axe-like weapon), causing injuries.

Subsequently, a emergency vehicle was called, and the injured was admitted to Charama Hospital. Several bystanders witnessed the incident. Based on the complainant's report, a case was registered against the Appellant at Police Station Halba under Sections 294, 506, and 323 of the Indian Penal Code. The FIR was registered as FIR No. 0/2014, and its entry was recorded as per Ex. P-17 at Police Station Narharpur.



During the investigation, the accused's confession panchnama was recorded under Ex. P-1, and his memorandum statement was recorded under Ex. P-2. Seizure proceedings were carried out as per seizure memos Ex. P-3 and Ex. P-4, and additional seizures were documented under seizure memos Ex. P-7 to Ex. P-9. The police prepared a spot map of the incident under Ex. P-10, and the Patwari prepared a site map under Ex. P-11.

Statements of the witnesses were also documented. The injured was medically examined at the Community Health Center, Charama, as per Ex. P-14. The seized properties were subjected to preliminary queries under Ex. P-15 and were later sent to the Forensic Science Laboratory, Raipur, for chemical analysis, as evidenced by receipt Ex. P-17.

After the completion of the investigation and finding sufficient evidence against the accused, a charge sheet was filed before the concerned Court. The trial court has framed charges against the appellant for the aforementioned offence and the appellant abjured his guilt and pleaded innocence.

3. In order to establish the charge against the appellant, the prosecution examined as many as 11 witnesses. The statement of the appellant under Section 313 of Cr.P.C. was also recorded in which he denied the material appearing against him and stated that he is innocent and he has been falsely implicated in the case.
4. Learned counsel for the appellant would submit that he is not pressing



this 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 appellant has already served the jail sentence of 1 year 5 months and 15 days and presently, he is on bail. He further submits that the appellant was aged about 54 years on the date of incident and presently would be about 65 years old man. Hence, considering all these facts, the sentence imposed upon the appellant may be reduced to the period already undergone by him.

5. Per contra, learned counsel appearing for the State, supporting the impugned judgment, opposed the arguments advanced on behalf of the counsel for appellant.
6. I have heard learned counsel for the parties and perused the record with utmost circumspection.
7. Having gone through the overall appreciation of the evidence on record, it stands conclusively established that on the relevant date, time, and place of the incident, the Appellant assaulted the injured Ghasi Ram (PW-3). The version of the injured is fully corroborated by the eyewitnesses — Shatrughan Patel (PW-5), Sandhya (PW-4), and Sangeeta Patel (PW-7) — who consistently deposed about witnessing the accused assaulting Ghasi Ram. The recovery of the weapon used in the offence pursuant to the accused's memorandum statement (Ex. P-2) and its seizure (Ex. P-3) from his house, further strengthens the prosecution's case. This recovery has been duly supported by the testimonies of investigating officer Kishore Soni (ASI-10) and seizure witnesses



Motiram (ASI-1) and Rameshwar Patel (ASI-8). Moreover, the medical testimony of Dr. Arvind Korram (PW-9) confirms that the head and forehead injuries were sustained by the injured. In the absence of any effective rebuttal or contrary evidence from the defence, it is thus proved beyond reasonable doubt that the accused inflicted the said injuries. As such, the finding of the trial Court in this regard is affirmed.

8. As regards sentence, in the matter of **Mohammad Giasuddin v. State of Andhra Pradesh** reported in (1977) 3 SCC 287, Hon'ble Supreme Court has observed that 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 and held in para-9 as follows:

"9. Western jurists 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 Nicodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education. 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 re-



culturisation. Therefore, the focus of interest in penology is the individual, and 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"

9. In the light of the decision of the Supreme Court in the case of **Mohammad Giasuddin** (supra); keeping in view the fact that the appellant has already served the jail sentence of about 1 year 5 months 15 days; looking to his age and also considering the entire facts and circumstances of the case, this Court is of the opinion that the ends of justice would serve if the appellant is sentenced to the period already



undergone by him.

10. Accordingly, the conviction of the appellant under Section is maintained however, his jail sentence is reduced to the period already undergone by him i.e. 1 year 5 months 15 days. Whereas, the fine amount imposed by the trial Court shall remain intact.
11. Consequently, the appeal is allowed in part to the extent indicated herein-above.
12. The appellant is on bail. He need not to surrender. Surety and personal bonds earlier furnished by him at the time of suspension of sentence shall remain operative for a period of six months in view of the provisions of Section 481 of the BNSS. The appellant shall appear before the higher Court as and when directed.
13. Record of the trial Court along with a copy of this judgment be sent forthwith for compliance and necessary action, if any.

Sd/-

(Bibhu Datta Guru)
Judge