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2025:CGHC:15767

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 366 of 2007

- 1 - Tarun @ Raja S/o Saida Yadav, aged about 25 years, R/o Village Khamaria P.S. Jarhagaon, District Bilaspur (C.G.)
- 2 - Videshi @ Naidu S/o Ramdas Panika, aged about 28 years, R/o Village Khamaria P.S. Jarhagaon, District Bilaspur (C.G.)
- 3 - Meluram S/o Rambharos Yadav, aged about 37 years, R/o Village Khamaria P.S. Jarhagaon, District Bilaspur (C.G.)
- 4 - Saida S/o Jhagru Yadav, aged about 52 years, R/o Village Khamaria P.S. Jarhagaon, District Bilaspur (C.G.)

---Appellants

Versus

State of Chhattisgarh, through: Station House Officer Police Station-Jarhagaon, District-Bilaspur (C.G.)

--- Respondent

For Appellants	:	Ms. Pooja Lonia, Advocate.
For State	:	Mr. Ajay Pandey, G.A.

CRA No. 309 of 2007

- 1 – Aajuram, S/o Dhanukram Yadav, aged about 40 years, R/o Village Khamhariya, P.S. Jarhagaon, District Bilaspur (C.G.)
- 2 - Dhanukram Yadav, S/o Samaru Yadav, aged about 65 years, R/o Village Khamhariya, P.S. Jarhagaon, District Bilaspur (C.G.)
- 3 – Arun, S/o Dhanukram Yadav, aged about 32 years, R/o Village Khamhariya, P.S. Jarhagaon, District Bilaspur (C.G.)

---Appellants

Versus

1 - State of Chhattisgarh, through S.H.O. Jarhagaon, District Bilaspur.

--- Respondent

For Appellants : Mr. Suraj Patel, on behalf of Mr. Arvind Dubey,
Advocate.

For State : Mr. Ajay Pandey, G.A.

Hon'ble Smt. Justice Rajani Dubey

Judgment on Board

03.04.2025

- Both these appeals are preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 arising out of a common judgment of conviction and order of sentence dated 16.04.2007 passed by the Special Judge Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989 in Special Criminal Case No. 74/2006, they are being heard analogously and disposed of by this common judgment wherein the said Court convicted and sentenced the appellants as under:-

Conviction	Sentence
Under Section 147 of IPC	R.I. for 1 year.
Under Section 148 of IPC	R.I. for 1 year.
Under Section 452 of IPC	R.I.. for 2 years, with a fine amount of Rs. 500/- in default of payment of fine to undergo R.I. for six months.
Under Section 506 of IPC	R.I. for 1 year.
Under Section 326 read with Section 149 of IPC	R.I. for 4 years, with a fine amount of Rs. 500/-, in default of payment of fine

(All the substantive sentences are directed to run concurrently)

- Learned counsel for the appellants in CRA No. 309/2007 submits that during the pendency of the appeal, the appellant No. 2/ Dhanuk Ram Yadav has reached heavenly abode which is duly supported by the death certificate issued by the competent authority annexed therein. As such, the appeal in respect of appellant No. 2 stands dismissed as abated.

3. Brief facts of the case are that as per the prosecution case on 23.02.2006, at about 11:00 a.m. the complainant Ajay Kumar (PW-06) along with his wife namely Brihaspati bai (PW-7) Sister namely Beena Bal (PW-9), brother-in-law namely Nandra Prakash (Bahnoi) (PW-10) were present in the house and at that time, all the accused persons/appellants forcefully entered in the house of complainant and they were carrying lathi (club), tabbal (sharp edged weapon) in their hands thereafter they abused the complainant Ajay Kumar (PW-06) on his caste and threatened him to life. The accused persons/appellants assaulted the complainant and when the complainant became unconscious, then they went away from the place of incident, thereafter the matter was reported to the police Station Jarhagaon, District-Bilaspur (C.G.) and the crime was registered against all the accused persons/appellants.
4. During investigation, statements of the witnesses were recorded and after completion of due and necessary investigation, a charge-sheet was filed before the Judicial Magistrate First Class, Bilaspur under Sections 147, 148, 452, 506, 307/149 of IPC and under Section 3(1) (x) and Section 3 (2) (v) (Prevention of Atrocities) Act, 1989 and, thereafter, the matter was committed to the court of Special Judge, SC & ST (Prevention of Atrocities), Act, 1989 Bilaspur, District Bilaspur (C.G.) under the aforesaid Sections to which the accused persons/appellants abjured their guilt and claimed for trial.
5. So as to hold the accused/appellants guilty, the prosecution has examined as many as 14 witnesses. However, the appellants adduced 03 witnesses in their defence. Statements of the accused/appellants were also recorded under Section 313 of Cr.P.C. in which they denied all the inculpatory charges leveled against them and pleaded their naiveness and false entailment in

this case. Hence, this instant appeal filed by the accused persons/appellants.

6. Learned counsel for the appellants submits that the impugned judgment of conviction and order of sentence of the trial Court is bad-in-law as well as facts. The learned trial Court has failed to appreciate that as per statement of (PW-06) complainant more than 100 persons broken his house. The learned trial Court has failed to appreciate the contradictions and omissions in the statement of the complainant (PW-06) and the learned trial Court also failed to appreciate that the criminal case is pending against the complainant and his statement cannot be relied upon this ground. The learned trial Court did not appreciate the oral and documentary evidence. There is no independent witness supporting the case of the prosecution and the prosecution has utterly failed to prove its case beyond reasonable doubt.

Alternatively in **CRA No. 366/2007** he submits that the incident took place in the year 2006 and this appeal is pending since 2007, the appellant No. 1 remained in jail in for more than 01 year, the appellant No. 2 remained in jail in for more than 01 year, the appellant No. 3 remained in jail for more than 09 months and appellant No. 4 remained in jail for more than 04 months and appellants No. 1 & 2 are middle-aged persons, whereas appellants No. 3 & 4 are old-aged persons. In **CRA No. 309/2007** the appellant No. 1 remained in jail for more than 01 year and appellant No. 3 remained in jail for more than 09 months and the appeal stands dismissed as abated for appellant No. 2 as during the pendency of this appeal he reached heavenly abode. As such, in the interest of justice, there sentence may be undergone.

7. *Ex adverso*, learned counsel for the State supporting the impugned judgment submits that the learned trial Court after

minute appreciation of the oral and documentary evidence has rightly convicted and sentenced the appellants. So, there is no scope for interference by this Court. This appeal being devoid of any merit is liable to be dismissed.

8. I have heard both the counsel for the parties and perused the material available on record including the impugned judgment with utmost circumspection.
9. It is clear from record of learned trial Court that the learned trial Court framed charges under Sections 147, 148, 452, 506, 307/149, Sections 3(1) (x) & 3(2) (v) of Prevention of Atrocities Act, 1989 and after appreciation of oral and documentary evidence the learned trial Court acquitted the appellants under Sections 3(1) (x) & 3(2) (v) of SC/ST Act, Prevention of Atrocities Act, 1989, but convicted them under Sections 147, 148, 452, 506, 326/149 of IPC, but acquitted them under Section 307/149 of IPC.
10. (PW-01) Pritam Das stated that on the date of incident all accused persons/appellants assaulted the complainant by lathi. (PW-02) Dr. George M. Khaka has not supported the case of the prosecution. (PW-06) complainant-Ajay Kumar stated that all accused persons/appellants were armed with lathi and tabbal and he was assaulted by them. (PW-07) Brihaspati Bai, (PW-09) Beena & (PW-10) Chandraprakash Bhargav supported the statement of the complainant. (PW-03) Dr. Anil Kumar examined the complainant- Ajay Kumar (PW-06) on 23.02.2006 and he found one injury and fracture on his body. The learned trial Court minutely appreciated the oral and documentary evidence and acquitted the appellants under Sections 307 of IPC & Sections 3(1) (x) and 3(2) (v) of Prevention of Atrocities Act, 1989, but convicted them under Sections 147, 148, 452, 506 and 326/149 of IPC.

11. Looking to the statement of the complainant and medical officer, the finding recorded by the learned trial Court is based on proper appreciation of oral and documentary evidence. So, there is no scope for interference by this Court.
12. As regards sentence, the incident took place in the year 2006 and this appeals are pending since 2007, In CRA No. 366/2007 the appellant No. 1 remained in jail in for more than 01 year, the appellant No. 2 remained in jail in for more than 01 year, the appellant No. 3 remained in jail for more than 09 months and appellant No. 4 remained in jail for more than 04 months and appellants No. 1 & 2 are middle-aged persons, whereas appellants No. 3 & 4 are old-aged persons. In CRA No. 309/2007 the appellant No. 1 remained in jail for more than 01 year and appellant No. 3 remained in jail for more than 09 months. Therefore, their sentence under the aforesaid sections are liable to be reduced to the period already undergone by them.
13. The appellants are reported to be on bail, therefore, their bail bond shall remain in operation for a period of six months from today in view of provisions of Section 481 of BNSS, 2023.
14. The trial Court record along with a copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-

(Rajani Dubey)

JUDGE

U.K. Raju