



2025:CGHC:39946



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 4 of 2004

1 -Deleted (Bodar) (Died) Honble Court Order Dated 12/09/22

2 -Deleted (Dukkal @ Dukala Bai) (Died) Honble Court Order Dated 12/09/2022

3- Dasharath S/o. Bodar Kaushik, aged about 38 years.

All are Cultivators and Resident of village -Hardi, PS- Takhatpur, District Bilaspur, Chhattisgarh

--- Appellant(s)

versus

State Of Chhattisgarh Through Incharge Police Station Takhatpur, District Bilaspur Chhattisgarh.

--- Respondent(s)

CRA No. 10 of 2004

1 - Smt.Saroj Bai W/o Pyare Lal Aged About 30 Years.

2 - Pyare Lal @ Bhangar (Died) As Per Honble Court Order Dated 13-04-2022.

3 - Lakheshwar @ Lesawa S/o Bhangar @ Pyare Lal Kaushik Aged About 26 Years.

All are Resident of village -Hardi, PS- Takhatpur, District Bilaspur, Chhattisgarh.

---Appellants

Versus



State Of Chhattisgarh Through Incharge Police Station Takhatpur,
District Bilaspur Chhattisgarh.

---- Respondent

For the Appellants : Mr. Ashok Kumar Swarnakar, Advocate.

For the State : Mr. Satish Gupta, GA.

Hon'ble Shri Justice Arvind Kumar Verma

Judgment on Board

08.08.2025.

1. Since the above appeals are arising out of same incident, they are being heard and decided together by this common order.
2. The above appeals have been preferred against the judgment of conviction and order of sentence dated 24.12.2003, passed by learned Additional Session Judge, Bilaspur, (CG) in Session Trial No.421/2001, whereby appellants stand convicted and sentence as under:

In CRA No.10/2004:

Conviction	Sentence
Appellant No.1/Smt. Saroj Bai Under Section 304(2)/149 of IPC Under Section 324/149 of the IPC. Under Section 148 of the IPC.	Rigorous imprisonment for 03 years Rigorous imprisonment for 1 year Rigorous imprisonment for 1 year



Appellant No.3/Lakeshwar @ Lesawa	
Under Section 304(2)/149 of IPC	Rigorous imprisonment for 05 years
Under Section 324 of the IPC.	Rigorous imprisonment for 2 years
Under Section 148 of the IPC.	Rigorous imprisonment for 1 year

In CRA No.4/2004:

Appellant No.3/Dasharath	
Under Section 304(2)/149 of IPC	Rigorous imprisonment for 05 years
Under Section 148 of the IPC.	Rigorous imprisonment for 1 year
Under Section 324/149 of the IPC.	Rigorous imprisonment for 1 year

3. The prosecution case, in brief, is this that on the date of incident due to some dispute, appellants/accused have assaulted the victims by means of sticks, Tabbal/Tabli, stones, due to which, victims Tarachand & Ashok (both are son of complainant) have suffered grievous injuries, they have taken to the Hospital, but on the way Tarachand has died. Based upon report made by complainant (Chandu Lal) on 30.04.2001, FIR was lodged and accused persons have been arrested for the aforesaid offence/crime.



4. During course of the investigation, on the basis of memorandum of accused/Lakheshwar, tabbal has been seized and sent it for FSL
5. On completion of investigation, charge-sheet was filed against the appellants and based upon which trial Court framed the charges against them.
6. Prosecution in order to prove its case examined total 18 witnesses. Appellants/accused in their defence have examined 03 witnesses. Statements of accused persons were also recorded under Section 313 of CrPC in which they denied all incriminating evidence available against them, pleaded innocence and false implication.
7. After completion of trial, the trial Court vide impugned judgment convicted and sentenced appellants herein in the manner as described above.
8. Learned counsel for the appellants submits that the impugned judgment is per se illegal and contrary to the evidence available on record. The trial Court failed to see that tabbal was examined by the chemical examiner and they did not find blood in tabbal of Lakheshwar. Tabbal of accused Pyarelal was not sent to ascertain the human blood. Trial Court erred to see that there is no repetition injury was found in the vital part. Trial Court committed mistake in relying upon the medical report made by PW-9/Dr. VK Soni about the injury of Ashok, which does not



support the prosecution case; trial Court misread the evidence of Dr. V.K. Soni who said in para 26 of his evidence that injury No.1 of Ashok could not be caused by a single blow of Tabbal. There are many contradictions and omissions in the statements/evidence of the prosecutrix and her father and mother, which was not considered properly by learned trial Court. The prosecution has not proved the guilt of accused/appellants beyond reasonable doubt, hence, impugned judgment deserves to be set-aside and accused/appellants be acquitted from all the offences levelled against them.

Alternatively, it is argued that if the Court finds that the alleged offence/crime has been committed by the appellants, then considering their detention period, their age, date of alleged incident and the fact that they are not having any previous criminal incident, the sentence awarded to appellants be reduced to the period already undergone by them.

9. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the impugned judgment passed by the trial Court is based on proper appreciation of material and evidence available on record and the same requires no interference.
10. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.



11. With regard to the incident, it is stated by PW-1/Chandulal (complainant) in his evidence that on the alleged date of incident, he saw that his two sons (Ashok and Tarachand) were being beaten by the accused/appellant; the women were hitting his sons by means of stones and remaining accused persons were beating the victims by means of tabbal and sticks. During fight, accused/Dashrath hit Tarachand (since deceased) by means of stick and accused/Pyarelal @ Bhangar hit the deceased/Tarachand by means of tabbal, which got stuck on his thigh, due to which, Tarachand suffered grievous injuries, he was taken to the hospital, where the Doctor declared him dead. PW-1 also stated that accused/Lakeshwar assaulted the victim/injured Ashok by means of tablal, due to which, he suffered injuries on his leg.
12. PW-10/Ashok Kumar (injured/victim) in his evidence stated that on the date of alleged incident, accused persons attack him, his brother (deceased/Tarachand) and other victims by means of tabbal, stones and sticks. During incident, accused/Dashrath assaulted the deceased/Tarachand by means of stick and accused/Pyarelal @ Bhangar hit the deceased/Tarachand by means of tabbal, which got stuck on his thigh, due to which, Tarachand suffered grievous injuries, blood was ozing in his leg and he became unconscious. PW-10 further stated that due to injuries, he also became unconscious and when he conscious in



the hospital, he came to know that his brother (Tarachand) has died due to the injuries.

13. PW-14/J. Toppo (Inspector) in his evidence has stated that on 30-4-2001, he received information that a fight had broken out in the village of Hardi, thereafter, he reached on spot alongwith other Police Officials. When they reached on spot, the victims/injured had already taken to the hospital. Based upon report, crime has been registered in connection with the above incident and during investigation, a tabbal having blood stains, two bamboo sticks having blood stains and blood stain soil were seized from the spot in the present of the witnesses and for which a seizure memo was prepared vide Exhibit P-17. The seized articles sent for examination.
14. PW-09/Dr.VK Soni in his evidence has stated that he was posted as medical officer at Community Health Centre, Takhatpur. On 30-9-2001, deceased Tarachand has brought before him by the Inspector Ramesh Tiwari for post-mortum. On examination, he found that body was very pale; there was cut wound in his left thigh; muscles were in cut position; there was a blood spot in clothes and leg; the injuries found on the body is ante-mortem. Following injuries were found on the body of deceased:



“1. एक कटा हुआ घाव जो कि दाहिने पैर में पीछे और अंदर की तरफ वर्टिकल रूप से स्थित था परन्तु धोड़ा तिरछा था जोकि पीछे की तरफ उपर था और उपर में चार से.मी. तक बायीफरकेट था जिसका आकार 13 से.मी. X 4 से.मी. मुँह का खुला हुआ मॉसपेशियां कटी हुई, और निचले के हिस्से में ज्यादा गहरा था जो कि फोरसेप से हड्डी महसूस की जा सकती थी ?

“2. एक नैलगू निशान बाँये घुटने के सामने के हिस्से में पाँच X 3 से.मी. के आकार में था कटेला छुने से नाजुक लग रहा था ?”

Dr. Soni further stated that first injury suffered by the deceased may be caused by any sharp edged weapon whereas the second injury may be caused by any hard and blunt object. However, no further injuries was found on the body of the deceased and there is no any sign/injury found on the body of deceased which shows that he was assaulted by the stones.

15. Considering facts of the case, nature of offence, submissions of counsel for the parties, evidence of the prosecution witnesses, particularly the evidence of PW-1/Chandulal (complainant), PW-10/Ashok Kumar (injured/victim), PW-14/J. Toppo (Inspector), PW-09/Dr.VK Soni, further the fact that tabbal and sticks has been seized in this case and as per post - mortem report (Ex.P-9) injuries found on the body of deceased may be caused by the Tabbal, FSL report (Ex.P-177) and the other material/evidence available on record, this Court is of the considered view that the trial Court has rightly convicted the appellants for the aforesaid offence/crime and there is no any infirmity or illegality in the



impugned judgment.

16. As regards the quantum of sentence with regard to the accused/Saroj Bai, considering the fact that the allegation against the accused/Saroj Bai is that she has only threw stones to the victims/injured; as per evidence of Investigating Officer nothing has been seized from her during investigation; further considering that the incident in question took place as back as in the year 2001 and now almost about 24 years have passed; during these years, appellant/accused (Saroj Bai) must have suffered tremendous mental trauma and anguish of trial, she has already undergone about 53 days of jail sentence, she has no any previous criminal incident, she is a lady and now aged about 54 and having family behind him, this Court is of the opinion that no useful purpose would be served in sending appellant/Smt. Saroj Bai to jail at this point of time for undergoing remaining period of sentence and ends of justice would be met if the sentence awarded to this appellant is reduced to the period already undergone by her.

17. As regards the quantum of sentence regarding the appellants/accused (Dasharath and Lakheshwar @ Lesawa), considering that incident in question took place as back as in the year 2001 and now almost about 24 years have passed; during these years, appellants must have suffered tremendous mental



trauma and anguish of trial, detention period of the appellants, they have no any previous criminal incident, appellant/Lakheshwar is now aged about 50 years whereas appellant/Dasharath is aged about 62 years and they having family behind them, this Court is of the opinion that sentence imposed by trial Court upon the appellants/accused (Dasharath and Lakheshwar @ Lesawa) appears to be on higher side. So keeping in view all the circumstances, mentioned above, ends of justice will be served if the sentence imposed upon the appellants is reduced from RI 05 years to RI 04 years.

18. In the result, appeals are allowed in part:

(i). Conviction of appellant/Smt. Saroj Bai under aforementioned Sections is hereby affirmed; sentence imposed upon her under said Sections are hereby modified and reduced to the period already undergone by her. She is reported to be on bail, hence, her bail bonds stand cancelled and surety, if any, stands discharged.

(ii). While maintaining the conviction of appellants (Dasharath and Lakheshwar @ Lesawa) under the aforementioned sections, the sentence imposed upon them by trial Court is reduced from RI for 05 years to RI 04 years.



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19. The record of the trial Court along with copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-
(Arvind Kumar Verma)
JUDGE

J/-