



2026:CGHC:13444



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1781 of 2017

Harbin Tirkey S/o Prakash Tirky Aged About 20 Years R/o Village
Pakpani, Thana Pathalgaon District Jashpur Chhattisgarh., Chhattisgarh
... Appellant

versus

State Of Chhattisgarh Through Police Thana - Pathalgaon, District
Jashpur Chhattisgarh., Chhattisgarh

... Respondent(s)

For Appellant : Mr. Sanjay Agrawal, Advocate
For Respondent(s) : Mr. Suresh Tandan, Panel Lawyer

Hon'ble Shri Justice Arvind Kumar Verma

Judgment on Board

20/03/2026

1. The present criminal appeal is filed by the appellant under Section 374(2) of Code of Criminal Procedure, 1973 (in short Cr.P.C.) against the judgment of conviction and order of sentence dated 06.11.2017 passed by Learned Additional Judge of Additional Sessions Judge Kunkuri, District- Jashpur (C.G.) in Sessions Trial No. 09/2017 whereby the appellant stand convicted as under:



<u>CONVICTION</u>	<u>SENTENCE</u>
U/S 324 of IPC	R.I. for 2 years.

2. The prosecution case, in brief, is that on 04.08.2016 at about 04:00 PM, near the house of Kishore Tirkey within Police Station Pathalgaon, District Jashpur, the appellant assaulted **Jitan Tirkey** and **Robert Tirkey** with a sharp-edged weapon (tangi), allegedly on account of a land dispute. On the basis of report lodged by PW-1 Jitan Tirkey, FIR (Ex. P-1) was registered and after due investigation, charge-sheet was filed. On the basis of the documents presented by the prosecution, charges under Sections 307 IPC were framed against the accused persons. The charges were read over and explained to them. The accused denied the charges and pleaded not guilty.
3. Learned counsel for the appellants submits that Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated due to land dispute; there are material contradictions in the prosecution evidence; the appellant has already undergone about three and a half months of incarceration; the incident is of the year 2016; the sentence deserves to be reduced to the period already undergone.
4. Per contra, learned counsel for the State supported the impugned judgment and submitted that the injured witnesses have consistently supported the prosecution case; their testimony is



corroborated by medical evidence; and the conviction is based on proper appreciation of evidence.

5. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
6. PW-1 (Injured Witness) has stated that the appellant assaulted him with a tangi causing head injury and also assaulted his son Robert. However, a significant contradiction is found in the FIR (Ex. P-1), wherein the injury to him is attributed to another accused (Kishore Tirkey). This creates doubt regarding the role of the appellant in causing injury to PW-1.
7. PW-2 (Injured Witness) has categorically deposed that the appellant assaulted him with a tangi, causing injuries to his head and thigh. His testimony remains unshaken in cross-examination and is duly corroborated by medical evidence. Being an injured witness, his testimony carries great evidentiary value and inspires confidence.
8. PW-3 & PW-4 both witnesses are not eyewitnesses to the actual incident. Their evidence is hearsay in nature and does not materially advance the prosecution case regarding the assault. PW-12 also admitted that she did not see the assault and she is not an eye-witness.
9. PW-9 Dr. James Minj (Medical Officer) prepared the medical report Ex. P/14 and P/15. The medical evidence reveals the incised wound on the head of Jitan Tirkey and the incised wounds



on the head and thigh of Robert Tirkey. The injuries were caused by a sharp-edged weapon. However, X-ray reports reveal no fracture, and the injuries are simple in nature.

10. Investigating Officers (PW-8 & PW-11) have proved FIR, seizure of weapon (tangi), and other procedural aspects. Though seizure witnesses turned hostile, recovery is sufficiently proved through official witnesses.
11. In view of the contradiction between FIR and deposition, and absence of reliable corroboration, it is not proved beyond reasonable doubt that the appellant caused injury to Jitan Tirkey. The testimony of PW-2, supported by medical evidence, clearly establishes that the appellant caused injuries to Robert Tirkey by a sharp-edged weapon. The injuries being simple in nature and absence of intention to cause death, the conviction under Section 324 IPC is justified and calls for no interference.
12. Thus, the prosecution has been fully successful in proving the offence against the accused beyond reasonable doubt. Therefore, this Court does not find that there is any illegality or perversity in the impugned order.
13. As regards the sentence awarded to the appellant. The incident is of the year 2016. The appellant and the injured are close relatives and the dispute arose out of land. The appellant has no criminal antecedents. The injuries caused are simple in nature. The appellant has already undergone 4 months and 8 days of incarceration. Considering the totality of circumstances, this Court



is of the view that sending the appellant back to jail after a long lapse of time would not serve the ends of justice.

14. Accordingly, the appeal is **partly-allowed**. While maintaining the conviction of the appellant under Section 324 of the *Indian Penal Code, 1860*, the sentence awarded by the learned trial Court is modified as under:

The substantive sentence of rigorous imprisonment for two years is reduced to the period already undergone by the appellant. In lieu thereof, a fine of ₹2,000/- (Rupees Two Thousand only) is imposed upon the appellant. In default of payment of fine, the appellant shall undergo rigorous imprisonment for a period of 3 months. The fine amount shall be paid to both the injured persons.

15. The appellant is on bail. His bail bonds shall remain in force till payment of fine and shall stand discharged thereafter.
16. Let a copy of this order and the original records be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-

(Arvind Kumar Verma)

JUDGE

Madhurima