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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1413 of 2024

Tulsi Vaishnav S/o Anand Das Vaishnav Aged About 40 Years Caste Bairagi R/o Village Semalnar, Aanganbadipara, Police Station Bastar, District- Bastar Chhattisgarh.

... Appellant

versus

State Of Chhattisgarh Through Station House Officer, Police Station Bastar District Bastar Chhattisgarh.

... Respondent

For Appellant : Mr. Amit Singh Chauhan, Advocate
For Respondent/State : Mr. Vivek Sharma, P.L.

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Judgment on Board

27/02/2026

- 1 This appeal under Section 415(2) of BNSS, 2023, has been filed against the judgment of conviction and order of sentence dated 28.06.2024 passed by learned Sessions Judge, Bastar, Place Jagdalpur, District Jagdalpur (C.G.), in Sessions Trial No.33/2023 whereby the appellant has been convicted and sentenced as under :



Conviction	Sentence
U/s 307 of IPC	Rigorous imprisonment for 7 years with fine of Rs.100/-, in default of payment of fine amount, additional R.I. for 1 month.

- 2** The case of prosecution, in brief, is that on 12.01.2023, the complainant, Piludas Vaishnav, lodged a report at Police Station Bastar that on 11.01.2023, a quarrel had occurred between his wife, Padmini, and his brother, Tulsi (the appellant). On 12.01.2023, at approximately 7:00 a.m., while his wife, Padmini Vaishnav, was washing utensils in their courtyard, the appellant came with an axe and assaulted on her head, neck, and left hand with intent to kill. She became unconscious and was taken to Bastar Hospital for treatment. Based on this report, an FIR was registered, and after the investigation was completed, charge sheet was filed against the appellant.
- 3** So as to hold the appellant guilty, the prosecution has examined as many as 15 witnesses and exhibited 28 documents in support of its case. 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 appreciation of the oral and documentary evidence available on record, vide impugned judgment, learned trial Court 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. He submits that the injured is the sister-in-law (Bhabhi) of the appellant. No grievous injury was found by the doctor. The appellant and the injured frequently engaged in heated arguments over land dispute. On 11.01.2023, while the appellant was arguing with his wife, Baisakhi, over a domestic matter, the injured intervened and abused him. This provocation allegedly led to the incident that occurred the following day, on 12.01.2023. He submits that the appellant is in jail since 15.01.2023, the maximum sentence imposed upon the appellant is 7 years, out of which he has already served the jail sentence of about 3 years, 1 month and 11 days. Therefore, considering all these facts, the sentence imposed upon the appellant may be reduced to the period already undergone by him and he may be released from jail.

- 6** Per contra, learned counsel appearing for the State, supporting the impugned judgment, opposed the argument advanced on behalf of the counsel for appellant. It was submitted that the applicant has a previous criminal record of the year 2010 involving a case of murder.
- 7** Heard learned counsel for the parties and perused the record.
- 8** Dr. Yash Bhourya (PW-6) who medically treated the injured found the following injuries on his body:
 - i) Lacerated wound over left parietal region,
size 5 x 1 x 0.5 cm.
 - ii) Incised wound, over left lateral side of neck,
size 6 x 1 x 0.5 cm.



- iii) Lacerated wound over left arm,
size 4 x 2 x 1 cm.

Accordingly to the doctor, the injuries appear to have been caused by sharp object. The medical examination report of the injured is Ex-P/5.

- 9 Having gone through the material available on record and the statements of the complainant Piludas Vaishnav (PW-1), the injured Smt. Padmini Vaishnav (PW-2), her son Roopsingh Vaishnav (PW-4), Dr. Yash Bhourya (PW-6) and the medical reports of the injured, the involvement of the appellant in the crime in question is clearly established. This Court does not see any illegality in the findings recorded by the Trial Court regarding conviction of the appellant for the offence punishable under Sections 307 of IPC.
- 10 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 jurisprudes 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 Geoffrey 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."

- 11** In the light of the decision of the Supreme Court in the case of **Mohammad Giasuddin** (supra) and keeping in view the fact that the maximum sentence imposed upon the appellant is 7 years, out of which he has already served the jail sentence of about 3 years, 1 month and 11 days 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.
- 12** Accordingly, the conviction of the appellant under Section 307 of IPC is maintained but his jail sentence is reduced to the period already undergone by him i.e. 3 years, 1 month & 11 days. However, the fine amount and its default stipulation imposed by the trial Court shall remain intact.
- 13** Consequently, the appeal is **allowed in part** to the extent



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indicated herein-above.

- 14** The appellant is reported to be in jail. He be released forthwith if not required to be detained in default of fine and not required in any other case.
- 15** Record of the trial Court along with a copy of this judgment be sent back forthwith for compliance and necessary action, if any. A copy of the judgment may also be sent to the concerned Jail Superintendent wherein the appellant is suffering the jail sentence.

Sd/-
(Sanjay Kumar Jaiswal)
JUDGE

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