



2026:CGHC:10291



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1644 of 2024

Bifan Gosai S/o Late Shri Mangar Gosai, Aged About 38 Years
R/o Village - Amdanda, P.S.-Balrampur, District- Balrampur-
Ramanujganj (C.G.) India.

... Appellant

versus

State Of Chhattisgarh Through P.S. Pasta District Balrampur-
Ramanujganj (C.G.)

... Respondent

For Appellant	: Mr. Ajay Kumar Mishra, Advocate
For Respondent/State	: Ms. Monika Dey, 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 20.05.2024 passed by learned 1st Additional Sessions Judge, District Balrampur-Ramanujganj (C.G.) in Sessions Trial No.168/2021 whereby the appellant has been convicted and sentenced as under :



Conviction	Sentence
U/s 450 of IPC	Rigorous imprisonment for 2 years with fine of Rs.200/-, in default of payment of fine amount, additional imprisonment for 1 month.
U/s 326 of IPC	Rigorous imprisonment for 5 years with fine of Rs.500/-, in default of payment of fine amount, additional imprisonment for 3 months.

- 2** The case of prosecution, in brief, is that the appellant is the brother-in-law (Shala) of the injured, Hariprasad. On the night of 22.04.2021, while both the appellant and the injured were asleep in the same room at the latter's residence, the appellant allegedly assaulted the injured with an axe, as a result of which, the injured sustained grievous injuries to his neck, right wrist, right leg, calf, and left thigh. Upon hearing the cries for help from the injured, his son Ankit Das came into the room and intervened by snatching the axe from the appellant who then escaped the premises by jumping over the courtyard wall. On report being lodged in this regard, 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 12 witnesses and exhibited 17 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 appellant is in jail since 16.11.2021, the maximum sentence imposed upon the appellant is 5 years, out of which he has already served the jail sentence of about 4 years, 3 months and 10 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 appellant has a previous criminal record of the year 2021 for offence under Sections 294, 506, 323 & 307 of IPC.
- 7** Heard learned counsel for the parties and perused the record.
- 8** Dr. Vikas Patel (PW-11) who conducted the medical examination of the injured, Hariprasad, found incised wound on medial aspect of right knee joint, size 7 cm x 3 cm x bone deep and multiple abrasions over all four limbs and at the neck. According to him, the said injury was caused by a hard and sharp object. He had referred the injured for X-ray of his knee and thigh.
- 9** Dr. Rajiv Tiwari (PW-10) has stated that as per the X-ray report, there was fracture in the right femur of the injured.



10 Having gone through the material available on record and the statements of the injured Hariprasad (PW-1), his sons Rahul Das (PW-2) & Ankit Das (PW-3), Dr. Vikas Patel (PW-11), Dr. Rajiv Tiwari (PW-10) 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 450 & 326 of IPC.

11 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."

- 12** 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 5 years, out of which he has already served the jail sentence of about 4 years, 3 months and 10 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.
- 13** Accordingly, the conviction of the appellant under Sections 450 & 326 of IPC is maintained but his jail sentence is reduced to the period already undergone by him i.e. 4 years, 3 months & 10 days. However, the fine amount and its default stipulation imposed by the trial Court shall remain intact.
- 14** Consequently, the appeal is **allowed in part** to the extent indicated herein-above.
- 15** 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.



- 16** 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**

Khatai