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HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1639 of 2017

- 1** - Ashok Shastri S/o Late Baijnath Shastri, Aged About 52 Years,
- 2** - Prafulla Shastri, S/o Late Baijnath Shastri, Aged About 42 Years,
- 3** - Ashwani Shastri, S/o Late Baijnath Shastri, Aged About 40 Years,
- 4** - Alok Shastri, S/o Late Baijnath Shastri, Aged About 24 Years,

All are R/o Village Baima, Police Station Sarkanda, District Bilaspur Chhattisgarh.

... Appellants

versus

State of Chhattisgarh through The District Magistrate, District Bilaspur, Chhattisgarh

---- Respondent

For Appellants	: Md. Ruhul Ameen & Mr. Anurag Agrawal, Advocates on behalf of Mr. Abhijeet Mishra, Advocate
For State/Respondent	: Mr. Vivek Mishra, PL

**Hon'ble Shri Justice Arvind Kumar Verma****Judgment on Board****18/03/2026**

1. This criminal appeal has been preferred by the appellants under Section 374(2) of CrPC being aggrieved with the judgment of conviction and order of sentence dated 27.09.2017 passed in Special SC/ST Case No.26/2016 by the Special Judge, SC/ST (Prevention of Atrocities) Act, 1989, Bilaspur (C.G.), whereby the trial Court has convicted the appellants as under :

<u>For Appellants No.1, 2 & 3</u>		
Conviction	Sentence	In Default
Under Section 294 of IPC	Fine amount of Rs.2,000/-	In default of payment of fine further SI for 07 days
Under Section 324 of IPC (for injury to Ashok)	Fine amount of Rs.5,000/-	In default of payment of fine further RI for 01 month
Under Section 324 of IPC (for injury to Dashrath)	Fine amount of Rs.5,000/-	In default of payment of fine further RI for 01 month
<u>For Appellants No.4</u>		
Under Section	Fine amount of	In default of



294 of IPC	Rs.2,000/-	payment of fine further SI for 07 days
Under Section 324 of IPC (for injury to Ashok)	Fine amount of Rs.5,000/-	In default of payment of fine further RI for 01 month
Under Section 324 of IPC (for injury to Dashrath)	Fine amount of Rs.5,000/-	In default of payment of fine further RI for 01 month
Under Section 324 of IPC (for injury to Munni Bai)	Fine amount of Rs.5,000/-	In default of payment of fine further RI for 01 month

2. According to the case of prosecution, on 16.12.2015, applicant Ashok Markam's brother Lalu had a dispute with accused Ashok Shastri. Due to the same enmity, on 17.12.2015, at 8:30 a.m., applicant Ashok and his father Dashrath were preparing to harvest paddy from their field and take it to Pratap Patel's storehouse in a bullock cart. They had just untied the rope when accused Ashok Shastri, Alok Shastri, Prafull Shastri, and Ashwani Shastri entered Pratap Patel's storehouse with sticks, iron rods, and cable wires and began assaulting the applicant and his father and abusing with filthy and obscene language and threatened to dire consequences. The applicant's father Dashrath was apologizing, but still the accused Alok beat him



with a stick, accused Ashwani beat him with an iron rod, accused Prafull beat him with a cable wire due to which Dashrath got injured on his head and started bleeding. The accused also hit Dashrath on his thigh and back with sticks. At the same time the applicant's mother Munnibai and sister Mandakini who were going to work in another storehouse, seeing the fight, came running and intervened. While intervening the applicant's mother and sister also got injured. The applicant lodged an FIR of the incident at Sarkanda Police Station. The police prepared a spot map of the incident. The applicant and the injured were examined. The caste certificate of the injured Dashrath Singh was seized in front of witnesses after he produced it. The bamboo stick and iron rod were seized from the accused in front of witnesses.

3. To prove the guilt of the appellant, the prosecution has examined as many as 11 witnesses. Statement of the appellants under Section 313 of the Cr.P.C. was recorded, wherein appellants pleaded innocence and false implication in the matter.
4. After completion of trial, the trial Court convicted and sentenced the appellant as mentioned in paragraph one of this judgment. Hence, this appeal.



5. Learned counsel appearing for the appellants contended that the trial Court has wrongly been convicted and sentenced the appellants without there being any sufficient evidence available on record. He further contended that the learned trial Court has erred in holding that the appellants/accused persons are causing injuries to the complainant party. They should have consider the omissions and contradiction of the prosecution witnesses and should have acquitted the accused persons. Against which, they have been convicted and sentenced which is liable to be set-aside. He further contended that the learned Trial Court should also have consider that the depositions of the prosecution witnesses are full of exaggeration, omissions and contradictions from their case diary statements which can not be relied for conviction. Their depositions are not corroborated with each other and inconsistent on the material point. The learned Trial Court should also have extended the benefit of doubt to the accused persons and should have acquitted them. They should also have consider that the prosecution has failed to prove their case beyond reasonable doubt. The learned Trial Court has erred in not considering the cross examination of the prosecution witnesses. Only the examination-in-chief of the witnesses have been considered and judgment of conviction has been passed, which is



erroneous and liable to be set-aside. The learned trial Court should also have consider that the accused Ashok has received grievous injuries on the previous quarrel and he has lodged complaint against the complainant party. Only to save ourselves, the complainant party has lodged the report against the accused persons. All the prosecution witnesses are relative and interested witness. He further contended that in the Court statement, PW-2 has stated that appellant Alok Shastri has assaulted him by way of Lathi while PW-3 has stated that appellant Alok Shastri has assaulted by way of cable wire, there is substantial contradictions in their statement. Therefore, it is prayed that the impugned judgment may be set aside and the appellants may be acquitted from the charges levelled against them.

6. Per contra, learned counsel for the State/respondent opposes the argument raised by counsel for the appellants, supported the impugned judgment and submits that sentence awarded by the trial Court is just and proper and requires no interference.
7. I have heard learned counsel appearing on behalf of the parties and perused the material available on record with utmost circumspection.



8. Dr. Nagina Tandan (PW-1) posted as the Medical Officer in District Hospital, Bilaspur, who examined the injured Ashok Singh and his Dashrath Lal.

9. On examination of the **injured- Ashok Singh**, he found that :

- i. There was a swelling of 3 x 4 cm on the frontal region of the head of the injured person and above the same swelling there was a scratch of 2 x 1 cm.
- ii. There was swelling and scratch of half cm by half cm above the injured person's knee.
- iii. The injured person had diffuse swelling on his right thigh.
- iv. A cut of 3 x 1/2 cm on the parietal region on the left side of the injured person's head. There was a torn wound.

He opined that - All of the above injuries appeared to have been inflicted by a hard, blunt object. Injuries 1 to 3 were minor in nature and occurred within 24 hours of his examination. An expert opinion was requested for injury No.4. His report is Exhibit P-1.

10. On examination of the **injured- Dashrath Lal**, he found that :

- i. there was a swelling of 3 cm x 3 cm on the left parietal region of the head of the injured person or a cut wound of 2 cm x 0.5 cm above it.



ii. The injured person had diffuse swelling on his left thigh.

iii. There was a swelling of 2 cm x 2 cm on the right temporal region of the injured person's head.

He opined that : All of the above injuries were inflicted by a hard and blunt object. The victim was referred for an expert opinion regarding the nature of the injuries. All injuries sustained by the victim occurred within 24 hours of his examination. His report is Exhibit P-2.

11. Injured- Dashrath (PW-2) has stated in his statement that on the date of incident, in Pratap Patel's barn, he, his son Ashok, his wife Munnibai, and his daughter Mandakini were preparing to unload paddy brought from the fields in a cart when Alok, Ashok, Ashwani, Prafulla, Shivam, and Chaman arrived. Alok was holding a stick, Ashok an iron rod, Ashwani an iron rod, Prafulla a cable wire, Shivam a stick, and Chaman a stick. They shouted, his caste related word and obscene work, and they assaulted on him and his family members with the weapons they held. Accused Alok assaulted him on the head and thigh with a stick. Prafulla assaulted him left arm, right ankle, and back with a cable wire. Ashwani used an iron rod to beat him left thigh, legs, and back in a bull-like manner. Due to the beating, blood oozed from his body and stained his clothes. His



son Ashok was beaten by accused Alok with a stick in his hand, accused Ashwani beat his son Ashok on his right wrist with an iron rod, accused Shivam beat him with a stick and other accused also beat him on his head, nose, hands, legs and other parts of his body. Ashok was injured due to the beating. Blood oozed from his body and blood stained the clothes he was wearing. The people who beat me and Ashok. The same men also assaulted Munnibai, injuring her head and wrist, and breaking her bangle. Shivam assaulted his daughter, Mandakini, with a stick he was holding, resulting in injuries to her back and waist. The accused then left, thinking they would die.

12. Kumari Mandakini Markam (PW-3), Munni Bai (PW-5) and Ashok Singh Markam (PW-9) have also supported the version of PW-2 – Dashrath.

Finding Regarding Appellant No. 4- Alok Shastri

13. Upon careful consideration of the evidence on record, this Court finds that the prosecution has failed to establish the guilt of Appellant No. 4 beyond reasonable doubt.
14. On perusal of the FIR reveals that no specific overt act or role has been attributed to Appellant No. 4 in the commission of the



alleged offence.

15. The relevant portion of the FIR is reproduced as under :

दिनांक 16/12/2015 को मेरा छोटा भाई लालू प्रसाद मरकाम के साथ आरोपी अशोक शास्त्री, का विवाद हुआ था उसी बात की रंजिश लेकर आया। दिनांक 17/12/2015 को जब मैं और मेरे पिता दशरथ मरकाम से वापस आ रहे थे तब अपने कोठार में धान खाली कर रहे थे तभी अशोक शास्त्री, अश्वनी शास्त्री, प्रफुल्ल शास्त्री व कुछ अन्य हमारे कोठार में आकर मेरे पिता ओर मुझे अश्लील गाली गलौच किये तुम लोगों को जान से मार देंगे कहकर लोहे के छड और डंडा और केबल वायर से मारपीट करने लगे.....

16. In the FIR, there is no mentioned about appellant No.4 for involvement in crime in question. When the complainant was very well known that appellant No.4-Alok Shastri played role in the crime in question, he is not mentioned his name in Ex.P-5. Therefore, FIR, being the earliest version of the prosecution case, assumes significance, and the absence of any clear allegation against Appellant No. 4 creates a serious doubt regarding his involvement. The record shows that no such cable wire was seized by the investigating agency during the course of investigation. This material contradiction between the oral evidence and the documentary/physical evidence further weakens the prosecution case against Appellant No. 4.



17. In criminal jurisprudence, the prosecution is required to prove its case beyond reasonable doubt. In the present case, the lack of specific attribution in the FIR coupled with non-seizure of the alleged weapon creates a reasonable doubt in respect of the involvement of Appellant No. 4.
18. Accordingly, Appellant No. 4 is entitled to the benefit of doubt, and hence, he is acquitted of the charges levelled against him.

Finding Regarding Other Appellants

19. Insofar as the other appellants are concerned, the evidence on record, including the consistent testimonies of the injured witnesses, medical evidence, and seizure of weapons, clearly establishes their active participation in the incident. Their roles are specifically attributed in the FIR, and the prosecution evidence against them remains cogent, credible, and trustworthy, with no material contradictions affecting the core of the case.
20. Accordingly, the conviction of the remaining appellants is hereby affirmed/affirmed.
21. Consequently, the instant appeal is allowed in part.
22. Records of the Court below be sent back along with a copy of



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this order forthwith for information and necessary compliance.

Sd/-
(Arvind Kumar Verma)
Judge

Vasant