



2026:CGHC:13847

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 2098 of 2024

Toshan @ Nachu Kosale S/o Ishwar Prasad Kosale Aged About 19 Years
R/o Tulsi, P.S. Patan, District Durg at present resident of Village Ghot, P.S.
Gobra Nawapara, District Raipur Chhattisgarh. **... Applicant**

versus

State of Chhattisgarh *through* Station House Officer, Police Station Gobra
Nawapara, District Raipur Chhattisgarh. **... Respondent**

For the appellant : Mr. B.L. Sahu, Advocate
For the State : Mr. Afroj Khan, Govt. Advocate

Hon’ble Shri Justice Sanjay Kumar Jaiswal)

Order/Judgment on Board

23.03.2026

1. This appeal under Section 374(2) of CrPC has been filed by appellant against the judgment of conviction and order of sentence dated 14.11.2024 passed by the Learned Sessions Judge Raipur District Raipur in Sessions Case No. 10/2023 whereby the appellant has been convicted and sentenced as under:

Conviction	:	Sentence
U/s 307 IPC		R.I. for 5 years and fine amount of Rs.1000/-, in default of payment of fine, additional RI for 3 months.

U/s 25 of the Arms Act	R.I. for 1 year and fine amount of Rs.1000/-, in default of payment of fine, additional RI for 3 months. Sentences have been directed to run concurrently
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2. The case of prosecution, in brief, is that on 26.10.2022 at about 12.10 pm., when the complainant Lajpath Sonwani had gone from his house to the pond in village Ghot where the accused Toshani alias Nachu Kosle started arguing with the complainant asking why he was abusing and beating him without any reason. The accused threatened the complainant by showing him a sharp iron knife which he was carrying and with the intention of killing and stabbed the complainant in the stomach causing serious injury, due to which, blood started oozing. The persons who were present there namely Balak Das Khande (P.W.3) and Vishnu Sonwani (P.W.4) witnessed the incident at the scene and tried to intervene. The injured was taken to the Government Hospital for treatment. During investigation, the statements of witnesses were recorded and after complying with the procedural formalities, the charge sheet was filed.

3. The prosecution has in all examined 09 witnesses and exhibited 21 documents to prove its case. The accused was examined under Section 313 CrPC wherein he pleaded innocence and false implication. After conclusion of trial and considering the evidence of prosecution witnesses and material available on record, learned Trial Court by impugned judgment, convicted and sentenced the appellants, as mentioned above.

4. At this stage, learned counsel for the appellants submits that he does not challenge the findings of conviction and sentence. The occurrence is related to the year 2022 and since then he is suffering the trauma of trial. Out of the maximum 5 years RI, the appellant has already spent in jail for 1 year and 10 months and is still undergoing the jail sentence. He submits that the appellant is a poor labourer; there are no criminal antecedents reported against him and considering all these aspects, the maximum sentence awarded to the appellant for the offence u/s 307 IPC, may be reduced to the period already undergone by him instead of subjecting him to undergo the further remaining jail sentence.

5. Per contra, learned State Counsel supports the impugned judgment and opposes the arguments of the Appellant. He submits that the court statement of injured witness is supported by medical evidence of Doctors P.W.5 & P.W.9 which proves that knife injury suffered by the victim is grievous in nature.

6. I have heard learned counsel for the parties and have also perused the trial court records.

7. Having gone through the material evidence on record especially the statement of injured witness P.W.1 Lajpat Sonwani, which further stood firm by the medical evidence of Dr. Prajwal Soni (P.W.5) and Dr. Sambhavee Bajpai (P.W.9) as also the medical report Ex.P-20 and the opinion of Dr. Sambhavee (Ex.P-21) which shows that a knife injury was inflicted in the abdomen of complainant, as result of which, he was required to undergo surgery, this Court does not find any illegality or infirmity in the findings recorded by the trial Court as regards the conviction of the appellant for the offence punishable under sections 307 IPC and 25 of the Arms Act and it is hereby affirmed.

8. In the matter of **Mohammad Giasuddin v. State of Andhra Pradesh (1977) 3 SCC 287**, Hon'ble Supreme Court while emphasizing the reformatory approach has expounded the words expressed by 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. Para-9 of the said judgment is quoted below :

“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-culturation. 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."

9. Applying the analogy laid down in **Mohammad Giasuddin** (supra) and keeping in view the facts that the maximum sentence imposed upon the appellant is 5 years u/s 307 IPC out of which he has already spent in jail for 1 year and 10 months and as per the arrest memo (Ex.P- 7), the appellant is a young boy of 19 years old and there are no criminal antecedents reported against him and further he has suffered the mental agony and trauma of protracted trial and thus looking to the over-all circumstances it will be just and proper if the sentences awarded by the trial court for the offence under section 307 IPC are reduced to 2 years and 6 months.

10. The sentence of 1 year RI imposed u/s 25 of the Arms Act has already been undergone by the appellant in view of the direction by trial Court to undergo the jail sentences concurrently.

11. Accordingly, while maintaining the appellant's conviction for offence under Section 307 IPC, the sentence awarded to him is hereby reduced to 2 years and 6 months by enhancing the fine amount of Rs.20,000/- from Rs.1000/- as imposed by the trial Court. In default of payment of fine, the appellant shall undergo additional RI for 1 year.

12. The fine amount, if any, already deposited shall be adjusted in the total fine amount enhanced by this Court. After depositing the total final amount of Rs.20,000/-, the same will be paid to the injured victim.

13. In the result, the appeal is **allowed in part** to the extent indicated hereinabove.

14. Appellant is in jail. His custody period of 1 year and 10 months shall be adjusted from the sentence of 2 years and 6 months.

15. Let a certified copy of this judgment along with the original record be transmitted to the concerned trial Court forthwith for information and necessary action. A copy of this judgment be also sent to the concerned Superintendent of Jail where the appellant is undergoing jail sentence.

Sd/-

(Sanjay Kumar Jaiswal)
Judge

Rao