



2026:CGHC:9144

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 2027 of 2025

Ramesh Agariya, S/o Harilal Agariya, aged about 30 years, R/o Village- Nandamali, Police Station- Darima, District- Surguja (C.G.)

... Appellant

versus

State of Chhattisgarh, through Station House Officer, Police Station- Darima, District- Surguja (C.G.)

... Respondent

For Appellant	: Mr. Chandrabhushan Kesharwani, Advocate
For Respondent/State	: Mr. Aman Tamrakar, Panel Lawyer

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Judgment on Board

20.02.2026

1. This appeal has been preferred by the appellant under Section 415 (2) of BNSS, 2023 challenging the impugned judgment of conviction and order of sentence dated 23.08.2025 passed by learned 6th Additional Sessions Judge, Ambikapur, District Surguja (C.G.) in Session Case No.11/2025, whereby the appellant has been convicted as under:-

<u>Conviction</u>	<u>Sentence</u>
Under Section 118 (1) of Bhartiya Nyaya Sanhita, 2023	2 years rigorous imprisonment and fine of Rs.500/-, in default of payment of fine, additional 3 months' RI.

2. The case of prosecution is that complainant Ranjit Kumar Agariya appeared at the police station and lodged a report that on 09/10/2024, his uncle (chacha) Ramesh Agariya/Appellant over some money dispute, abused his grandfather Harilal Agariya and assaulted his father Radhe Agariya on the back side of his head and on the front side of his face near the nose with axe (Tangi), due to which blood was oozing and he was taken to the hospital. Thereafter, a case was registered against the appellant. Axe was seized from him vide Ex.P-4. Statements of witnesses were recorded and after completion of investigation, charge sheet was filed against the appellant.
3. During the course of trial, in order to bring home the offence, prosecution examined as many as 15 witnesses and exhibited 25 documents in support of its case. The statement of the appellant / accused was recorded under Section 351 of the BNSS in which he denied the circumstances appearing against him in the evidence brought on record by the prosecution, pleaded innocence and false implication.
4. Learned trial Court, after appreciation of oral and documentary evidence on record, acquitted the appellant of offence under Sections 296, 351(2) and 109 of BNS however, convicted and sentenced him as mentioned in the opening paragraph of this judgment, against which the present appeal has been preferred by the appellant questioning the legality, validity and correctness of the impugned judgment.
5. Learned counsel for the appellant submits that he does not want to press this appeal on merits and confines his argument only on sentence part. He submits that the appellant is having family responsibilities. The appellant and the injured are real brothers. The appellant already remained in jail for about 1 year, 4 months and 10 days. The incident took place in the year 2024 and since

then he is facing the *lis*. Hence, by considering all these aspects, the sentence of the appellant may be reduced to the period already undergone by him in the interest of justice.

6. Per contra, learned counsel appearing for the State, supported the impugned judgment and opposed the arguments advanced on behalf of the Appellant.
7. Heard learned counsel for the parties and perused the record including the impugned judgment.
8. Having gone through the material available on record and the evidence of injured Radheram Agaraiya (PW-5), complainant Ranjit Agariya (PW-1), Dr. Janeshwar Singh (PW-10), his report (Ex.P-11) and the statement of Harilal (PW-2), establish the involvement of the Appellant in the crime in question. This Court does not find any illegality or infirmity in the finding recorded by the Trial Court as regards the conviction of the appellant for offence punishable under Section 118(1) of BNS which is based on evidence available on record and it is hereby affirmed.
9. As regards the 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 Jeoffrey 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."

10. In the light of the decision of the Hon'ble Supreme Court in the case of **Mohammad Giasuddin** (supra) and keeping in view the fact that the appellant and the injured are real brothers, the appellant is facing the *lis* since 2024, he has no criminal antecedent and having family responsibilities. As per letter dated 18.02.2026, received from the office of Jail Superintendent, Central Jail, Ambikapur, District Surguja(C.G.), he already remained in jail for about 1 year 4 months and 10 days. Considering all these facts, this Court opines that justice would be served if the appellant's sentence is reduced to the period already undergone by him.
11. Accordingly, the conviction of the appellant for offence under Section 118(1) of BNS is maintained and the sentence of RI for 2 years is reduced to the period already undergone by him i.e. 1

year 4 months and 10 days. However, the fine amount and its default stipulation imposed by the trial Court shall remain intact.

12. Consequently, the appeal is **partly allowed** to the extent indicated hereinabove.
13. The appellant is in jail. He be released forthwith if not required to be detained in any other case/s.
14. Let a certified copy of this judgment along with the original record be transmitted forthwith to the trial Court concerned. A copy of this judgment be also sent to the concerned Jail Superintendent where the Appellant is serving his jail sentence, for information and necessary compliance.

Sd/-
(Sanjay Kumar Jaiswal)
Judge