

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2456 OF 2009

Ramsharan .. Appellant

Versus

State of Chhattisgarh ..Respondent

ORDER

The appellant faced trial for the offence under Section 302 IPC in S.T. No. 235 of 1998 and was convicted thereunder and sentenced to life imprisonment and fine of Rs.1000 / - with default clause by the IV Additional Sessions Judge, Bilaspur, Link Court, Pendra Road, M.P.

The allegation against the accused- appellant was that on 6.4.1998 about 4.30 p.m. he came holding a lathi in his hand and abused the deceased Shiv Kumar who had complained to the garden in- charge, namely, Kamal Kumar. Prior to that he had lodged an FIR alleging that he and the accused were working in horticulture garden and the accused had created nuisance after consuming liquor. This lodgment of FIR had angered the deceased and on the fateful day when he was proceeding to his house, the

accused abused him again. Kamal Kumar intervened while the deceased was trying to assasult him with the lathi. The accused- appellant was not able to resist the intervention of Kamal Kumar, took out a dagger which he had concealed at the back side of his vest and assaulted him on the left side of his head, as a consequence of which there was bleeding. Immediately, an FIR was lodged which was registered under Section 307 IPC. Be it noted, while Shiv Kumar was availing treatment at the S.P. Hospital, Bilaspur, Dr. R.C. Mishra, PW-8, recorded the dying declaration vide Ext.

P-12. Shiv Kumar, eventually, succumbed to his injuries and thereafter the offence was converted to one under

Section 302 IPC.

The investigating agency seized the weapon, recorded statements of number of witnesses and sent the articles for chemical examination to Forensic Science Laboratory, and the report was obtained therefrom as per Ext. P-26. Ultimately after the charge sheet was filed before the competent court, the matter was committed to the Court of Session. The accused pleaded false implication due to animosity.

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The prosecution, in order to establish its case, examined 11 witnesses and brought on record number of documents. The defence chose not to adduce any evidence.

The learned trial Judge, placing reliance on the ocular and the documentary evidence, found the appellant guilty and convicted him under Section 302 IPC and sentenced imprisonment for life.

In appeal, the High Court re-appreciated the evidence and heavily relied on the evidence of Santoshi Nagesh, PW-6, the daughter of the deceased, the earlier FIR lodged by the deceased, Ext.P- 23, and the dying declaration, Ext.P- 12. The High Court, scrutinizing in detail the evidence of daughter of the deceased, found that she was an eye-witness to the crime and her evidence inspired confidence and also has got corroboration from other evidence on record, including the dying declaration, post mortem report and medico- legal report and, accordingly, affirmed the judgment of conviction and sentence recorded by the learned trial Judge.

We have carefully perused the evidence of the daughter, PW-6. She has categorically stated that the accused had assaulted her father with a dagger on his head

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and there was a bleeding injury. Learned counsel for the appellant endeavoured hard to point out certain

O R D E R

The appeal is dismissed in terms of
the signed order.

(NAVEEN KUMAR)
COURT MASTER

(RENUKA SADANA)
COURT MASTER

(Signed order is placed on the file)