
(2018) 09 CHH CK 0137

Chhattisgarh High Court

Case No: Criminal Appeal (CRA) No. 1096 Of 2002

Makhanlal

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision: Sept. 8, 2018

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 313
- Indian Penal Code, 1860 - Section 324, 384, 394, 398

Citation: (2018) 09 CHH CK 0137

Hon'ble Judges: Pritinker Diwaker, J

Bench: Single Bench

Advocate: Pawan Shrivastava, Ravindra Agrawal

Final Decision: Dismissed

Judgement

Pritinker Diwaker, J

1. This appeal is directed against the judgment and order dated 23.09.2002 passed by Additional Sessions Judge, Durg in Sessions Trial No. 79/2002

convicting the accused/appellant under Section 324 IPC and sentencing him to undergo rigorous imprisonment for two years with fine of Rs. 1000/-,

plus default stipulations.

2. Facts of the case in brief are that on 30.10.2001 while the victim namely Gurmit Singh (PW-2) was returning to his house by car, he was stopped

and assaulted by the accused/appellant with the help of knife. FIR (Ex.P-1) was lodged on the same day by the victim himself and based on which the

offence under Section 384 IPC was registered against the accused/appellant. The Court below framed the charge against the accused/appellant under

Sections 394 and 398 IPC.

3. So as to hold the accused/appellant guilty, prosecution has examined 07 witnesses in support of its case. Statement of the accused/appellant was

also recorded under Section 313 of the Code of Criminal Procedure in which he denied the charge levelled against him and pleaded his innocence and

false implication in the case.

4. After hearing the parties, the trial Court has convicted and sentenced the accused/appellant as mentioned above in paragraph No.1 of this judgment.

5. Counsel for the accused/appellant submits that the Court below has erred in law in convicting the accused/appellant under Section 324 IPC. He

submits that as the accused/appellant has already remained in jail for 08 days, he may be sentenced to the period already undergone if this Court is not

inclined to interfere with the conviction part of the judgment impugned.

6. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that the findings recorded by the Court below

convicting and sentencing the accused/appellant as described above are strictly in accordance with law and there is no infirmity in the same.

7. Heard counsel for the parties and perused the evidence on record.

8. Gurumit Singh (PW-2) - the victim has stated that on the date of incident when he was returning home from his factory, accused/appellant who was

working as Guard in Pioneer Security Services, came there on a bicycle, asked him to stop, diverted his attention and inflicted knife injuries on his chin

palm and also demanded money kept with him. In cross-examination also, this witness remained firm to what he stated in the examination-in-chief.

Kishore Kumar (PW-3) - the eyewitness to the incident has stated that on the date of incident when he was returning home, he saw some scuffle

between the accused/appellant and PW-2, and that when he reached near the vehicle of PW-2, the accused/appellant ran away and at that time blood

was oozing from the chin and right palm of PW-2. According to this witness, the victim also told him as to the act of accused/appellant where he

demanded money and assaulted with knife. Jivendra Kumar (PW-4) has also stated that on hearing the screams of PW-2 he went near his vehicle

and saw the accused/appellant running away from the spot, and that on being asked, PW-2 told him to have been assaulted by the accused/appellant

with knife. Shivraj Shukla (PW-5) has stated that on the date of incident the accused/appellant had telephonically informed him about the assault made

by him to the accused, and also asked him to destroy the record to get rid of the police action. Deepchand Singh (PW-6) is the investigating officer

who has duly supported the case of the prosecution. Dr. Ashok Kumar Soni (PW-7) is the witness who medically examined the injured (PW-2) and

gave his report Ex.P-6 stating that he noticed incised wound chin and palm with some sharp and hard object.

9. Having heard counsel for the parties and gone through the evidence of the witnesses in particular that of PW-3 to PW-5 who saw the

accused/appellant running away after inflicting injuries to the victim, it is apparent that on the date of incident when the injured (PW-2) was returning

from his factory, the accused/appellant stopped his car, diverted his attention and caused injuries to him with the help of knife. The doctor (PW-7) who

medically examined him has stated in his report Ex. P-6 that he noticed incised wounds on the chin and palm of the injured which were inflicted with

some sharp and hard object. Thus the findings recorded by the Court below are based on the evidence of the witnesses including the victim and the

doctor who medically examined him and therefore, no illegality or infirmity in the same appears to be there warranting interference of by this Court.

10. Appeal thus being without any substance is liable to be dismissed and it is dismissed as such. Accused/appellant is reported to be on bail and

therefore let him be arrested and sent to jail to serve out remainder of the sentence.