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**(2012) 09 JH CK 0057**

**Jharkhand High Court**

**Case No:** Criminal Appeal (D.B.) No. 676 of 2012

Shyam Soni @ Shambhu Soni

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

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**Date of Decision:** Sept. 10, 2012

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 302, 365

**Hon'ble Judges:** P.P. Bhatt, J; D.N. Patel, J

**Bench:** Division Bench

**Advocate:** P.K. Rana and P.K. Puraiyar, for the Appellant; T.N. Verma, Assistant Public Prosecutor, for the Respondent

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**Judgement**

@JUDGMENTTAG-ORDER

D.N. Patel, J.

Present criminal appeal has also been admitted vide order dated 23rd of August, 2012. The record of proceeding of Sessions Trial was called for from the Trial Court so as to appreciate the arguments for suspension of sentence. We have heard the Learned Counsels for both the sides on the prayer for suspension of sentence awarded by the Trial Court to the present appellant and we have perused the record of proceeding of the Trial Court.

2. Having heard the Learned Counsels for both the sides and looking to the evidence on record of the Sessions Trial, there is a prima facie case against the present appellant-accused. As the criminal appeal is pending, we are not much analyzing the evidence on record. Suffice it to say that looking to the deposition of the prosecution case, especially P.W. -7 and P.W. -8 to be read with the deposition given by other prosecution witnesses and also looking to Ext.-3 and Ext. 3/1 and also looking to the fact that several incriminating articles have been recovered, upon the statement of the co-accused and these articles have also been identified by the informant-P.W.-7, the evidences collectively constitute prima facie case against the appellant-accused

and also looking to the gravity of the offence and quantum of punishment, we are not inclined to suspend the sentence awarded by the District & Sessions Judge-I-cum-Special Judge, Dhanbad in Sessions Trial No. 606 of 2009, whereby the appellant-accused has been convicted mainly for the offence punishable u/s 302 of the Indian Penal Code as well as for the offence punishable u/s 365 of the Indian Penal Code for seven years by the order of sentence dated 31.5.2012. Thus, there is no substance in prayer for suspension of sentence of the appellant-accused and the same is hereby rejected.