

(2018) 09 CHH CK 0134

In the Chhattisgarh High Court

Case No : Criminal Appeal (CRA) No. 02 Of 2010

Govind Ram Patel @ Keshav @ Mushwa

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 08-09-2018

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 313
Indian Penal Code, 1860 — Section 307

Citation : (2018) 09 CHH CK 0134

Hon'ble Judges : Pritinker Diwaker, J

Bench : Single Bench

Advocate : Aman Kesharwani, Awadh Tripathi, Vivek Sharma

Final Decision : Dismissed

Judgement

Pritinker Diwaker, J

1. This appeal arises out of the judgment of conviction and order of sentence dated 01.12.2009 passed by Sessions Judge, Dhamtari, in Sessions Trial

No.25/2009 convicting the accused/appellant under Section 307 IPC and sentencing him to undergo R.I. for ten years with fine of Rs.2000/-, plus

default stipulation.

2. As per the prosecution case, on 31.03.2009 at 7.30 AM the accused/appellant poured kerosene oil on his wife Shyama Bai (PW/16) and set her

ablaze. Soon thereafter, at 09.05 AM, FIR (Ex.P/1) was lodged by Goutam Ram Patel (PW/1), based on which, offence under Section 307 IPC was

registered against the accused/appellant. After the incident, injured Shyama Bai (PW/16) was taken to District Hospital, Dhamtari vide Ex.P/5-A

where she was medically examined by Dr. Y.K. Singh (PW/8) who gave his report (Ex.P/5) noticing 20% superficial deep burn over chest, face, both

upper part of both arm, upper part of back and smell of kerosene oil was coming.

3. After investigation, the charge sheet was filed against the accused/appellant under Section 307 IPC and accordingly charge was framed against him by the trial Court.

4. So as to hold the accused/appellant guilty, prosecution examined as many as 16 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 circumstances appearing against

him in the prosecution case, pleaded innocence and false implication.

5. The trial Court after hearing counsel for the respective parties and considering the material available on record has convicted and sentenced the

accused/appellant as mentioned in para-1 of this judgment. Hence, this appeal.

6. Learned counsel for the appellant submits that even if the entire prosecution case is taken as it is, offence under Section 307 IPC is not made out

against the accused/appellant. He further submits that the accused/appellant has already undergone the sentence imposed upon him as he was not

granted bail by this Court.

7. On the other hand, supporting the impugned judgment it has been argued by the State counsel that conviction of the accused/appellant is in

accordance with law and there is no infirmity in the same.

8. I have heard learned counsel for the parties and perused the material available on record.

9. Complainant Shyama Bai (PW/16), while supporting the prosecution case, has stated that on the fateful day at 7.00 AM when she was working in

the house, accused/appellant came to her and demanded money. She has further stated that when she told her daughter to go to other's house for

money, the accused/appellant poured kerosene oil and set her ablaze. She has also stated that on hearing her cries, Goutam (PW/1), his mother and

sister came to her house and extinguished fire. Ku. Kirti (PW/3) aged about 10 year, is daughter of the accused/appellant and victim. She is also eye-

witness to the incident. The trial Court, after satisfying itself that the child witness is able to answer the questions put to her rationally, has examined

her. She has stated that her father accused/appellant did not say anything to her mother, poured kerosene oil and set her mother ablaze. Dr. Y.K.

Singh (PW/8) is the witness who medically examined the victim and gave his report (Ex.P/5) noticing 20% superficial deep burn over chest, face, both upper part of both arm, upper part of back and smell of kerosene oil was coming.

10. Close scrutiny of the evidence makes it clear that on 31.03.2009 at 7.15 AM, when victim PW/16 was working in her house, the accused/appellant

came to her demanding money and when she told her daughter PW/3 to go to other's house for money, the accused/appellant poured kerosene oil and

set her ablaze. Victim Shyama Bai (PW/16) has categorically deposed that it is the accused/appellant who after demanding money poured kerosene

oil on her and set her ablaze. The incident has been witnessed by PW/3 who has duly supported the prosecution case and stated that it is the

accused/appellant who set her mother PW/16 on fire after pouring kerosene oil. That apart, Goutam Ram Patel (PW/01), at whose instance FIR

(Ex.P/1) was lodged, has also stated that after hearing the cries of victim, he went there and extinguished the fire. This witness has also stated when

he reached to the house of victim, she informed him that the accused/appellant poured kerosene oil on her and set her ablaze. The evidence of these

witnesses is well corroborated by the evidence of Doctor PW/8 who medically examined the victim PW/16 and gave his report (Ex.P/5) noticing 20%

superficial burn injuries on chest, face, upper part of forearm and upper part of back. Smell of kerosene oil was also coming. The defence has cross-

examined these witnesses at length but has not been able to elicit anything in their cross-examination to discredit their testimonies especially to the fact

that the accused/appellant has not poured kerosene oil on victim and set her ablaze. The statements of PW/1, PW/3, PW/8 and PW/16 inspire full

confidence of this Court and I have no reason to disbelieve the statement of these witnesses.

11. For the reasons set out above, this Court is of the considered opinion that the findings of the Court below are strictly in conformity with the

material available on record and the Court below has not committed any error in passing the judgment impugned.

12. The appeal thus has no substance and it is liable to be dismissed. Dismissal recorded accordingly.