



2026:CGHC:20815
NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No.520 of 2013

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
08.04.2026	05.05.2026	--	05.05.2026

- 1 - Manoj Kumar S/o Narayan Prasad Aged About 27 Years
 - 2 - Rajesh Kumar S/o Narayan Prasad Aged About 21 Years
 - 3 - Shivprasad S/o Pukram Banjare Aged About 29 Years
- All Are R/o Ranigaon Rajabhatha, P.S. Baradwar, Distt. Janjgir Champa
C.G. Civil and Revenue , Distt. Janjgir Champa, Chhattisgarh

Appellants (s)

versus

- 1 - State Of Chhattisgarh Through – Station House Officer., P.S. Baradwar, Distt. Janjgir Champa, Chhattisgarh

Respondent(s)

CRA No.544 of 2013

- 1 - Narayan Prasad S/o Late Motilal Aged About 51 Years Caste Sonwani R/o Ranigaon (Rajabhatha), PS Baradwar, Distt. Janjgir Champa C.G. Civil and Rev. Distt. Janjgir Champa, Chhattisgarh

Appellant (s)

Versus

- 1 - State Of Chhattisgarh Through SHO, PS Baradwar, Distt. Janjgir Champa, Chhattisgarh

**Respondent(s)**

For Appellants (s) : Mr. Ishwar Jaiswal, Advocate in CRA No.520/13 and Mr. Ravindra Sharma, Advocate in CRA No.544/13

For Respondent(s) : Mr. Kanhaiya Ram Yadav and Mr. Amiya Bhushan, Panel Lawyers

Hon'ble Smt. Justice Rajani Dubey**C A V Judgment**

1. Since both the appeals arise out of common judgment of conviction and order of sentence, as such the same have been clubbed together, heard together and are being decided by a common order.
2. The present appeals are directed against the judgment of conviction and order of sentence dated 30.05.2013 passed by the learned 2nd Additional Session Judge, Sakti, District Janjgir-Champa (C.G.) in ST No.256/2011, whereby the appellants have been convicted under Sections 307/34 & 323/34 of IPC and sentenced to undergo RI for 10 years with fine of Rs.25,000/- and RI for 1 year with fine of Rs.2000/- with default stipulations.
3. The prosecution case, in brief, is that on 14.11.2011, when the complainant Manoj and his family members were cutting their crops on their field, the accused reached there and stopped them by using filthy languages and assaulted them by axe, club, hand and fist, as a result of which the complainant received grievous injuries, thereafter a case was registered against the accused



persons. After investigation, the charge sheet was filed before the concerned Magistrate and on the basis of the evidence adduced by the prosecution and material available on record, learned trial court convicted and sentenced the accused/appellants, as mentioned in para 2 of the judgment.

4. Learned counsel for the appellants submits that the judgment passed by the learned Trial Court is contrary to law and material available on record. There are material omissions and contradictions in the statements of the prosecution witnesses. The complainant did not receive grievous injuries and the learned Trial Court has also failed to appreciate the evidence of PW-10 Dr. Dr. Mamta Jagat and PW-12 Dr. P. Singh. The appellants also sustained injuries and a counter case was also registered against the complainant party but the learned Trial Court did not appreciate the material available on record properly and wrongly acquitted the complainant party and convicted the appellants for the aforesaid offence. Therefore, the finding recorded by the learned Trial Court is not sustainable and is liable to be dismissed. Learned counsel for the appellants lastly submits that the appellant Narayan Prasad is a government servant and has been wrongly roped in the present case due to previous animosity as such any confirmation of the conviction would adversely affect his service career. Therefore, the appeals deserve to be allowed. Reliance has been placed on the judgment rendered by this Court in the matter of **Jagdish Prasad**



Sahu and another vs State of Chhattisgarh and another connected matter, passed in **CRA No.207/2012 & ACQA No.43/2012**, decided on **09.01.2026**.

5. Per contra, learned State counsel supports the impugned judgment and submits that the learned Trial Court has minutely appreciated the evidence available on record and has rightly convicted the appellants. Therefore, the appeals are liable to be dismissed.
6. Heard learned counsel for the parties and perused the material available on record.
7. It is clear from the record of the learned Trial Court that the learned Trial Court framed charges under Sections 294, 506 Part-II, 307 and 323 read with Section 34 of IPC against the appellant Narayan Prasad and for other appellants Manoj Kumar, Rajesh Kumar and Shiv Prasad under Sections 294, 307 read with Section 34 and 323 of IPC. After appreciation of oral and documentary evidence, the learned Trial Court convicted the appellant Narayan Prasad under Sections 307 & 323 read with Section 34 of IPC and convicted the other co-accused persons under Sections 307 read with Section 34 and 323 read with Section 34 of IPC and acquitted all the accused from the charges under Sections 294 & 506 Part-II of IPC.
8. During pendency of the appeal, the appellant Rajesh Kumar died, as such CRA No.520/2013 in respect of the said appellant has



abated.

9. The complainant Manoj Kumar Ratre (PW-1) stated that on 14.11.2011, all the accused persons assaulted him by axe and club, as a result of which he sustained injuries on his head, hand and leg. Thereafter he lodged FIR (Ex-P/1). In para 13 of the cross-examination, he stated as under:-

“13. मैंने 16.11.11 को पुनः जिला शासकीय अस्पताल में भर्ती हुआ। यह कहना सही है कि 15.11.11 को रात में अपने घर में था चक्कर आया तो मैं दूसरे दिन अस्पताल गया। यह कहना गलत है कि मुझे 15.11.11 को छुट्टी कर दी गई थी। यह कहना गलत है कि मैं जबरन 16 तारीख को अस्पताल में आकर भर्ती हो गया। मैंने डॉक्टर को चक्कर आने वाली बात बताई थी। मेरा पुलिस ने 14 तारीख को बयान लिया था। मेरा बयान नौ बजे हुआ था। यह कहना गलत है कि 14.11.11 के बाद आरोपीगण थाना में बैठा था। मैं नहीं बता सकता कि 14.11.11 को आरोपीगण थाना में रिपोर्ट करने के उसके बाद कहा ले गये। यह कहना सही है कि दयाराम मेरा चाचा है जिसको संसद परसराम की लड़की ब्याही है। मैं नहीं बता सकता कि परसराम के द्वारा अस्पताल में फोन करके मुझे 16.11.11 को पुनः अस्पताल में इसलिये भर्ती कराया था क्योंकि आरोपीगण के विरुद्ध 307 भा.द.वि. के अंतर्गत कार्यवाही की जा सके। जब 15.11.11 को मैं घर आ गया उसके बाद घर में अपनी दैनिक दिनचर्या का कार्य नहीं कर पाया था। यह कहना गलत है कि 15.11.11 को साक्षी मोटर सायकल से आया था।”

10. Dr. Mamta Singh (PW-10) examined Manoj Kumar, S/o Kashiram on 14.11.2011 and treated him primarily and advised for x-ray also. She admitted her signatures on OPD prescription (Ex-D/2) on B to B part of the same.
11. Dr. P. Singh (PW-12) examined Manoj on 14.11.2011 and found 3 injuries on his head, wrist and left knee and advised for CT Scan and x-ray and gave his report (Ex-P/36) and he admitted his signatures on A to A part of the same. He stated that no fracture was found on the head and hand of the complainant Manoj.



12. Dr. Smt. Archana Singh (PW-5) conducted CT Scan of head of Manoj Kumar but she did not find any fracture on his head and gave her report (Ex-P/12) and she admitted her signatures on A to A part of the same.
13. As per complainant Manoj, he was admitted again in hospital on 16.11.2011 but as per statement of all 3 doctors and their report, it is clear that on 14.11.2011 Manoj Kumar sustained simple injuries and per CT Scan and x-ray report, no fracture was found on his head and hand.
14. It is also clear from FIR (Ex-P/1) that the date of incident is 14.11.2011 and PW-12 Dr. P. Singh immediately examined the complainant on the same day and on the next date on 15.11.2011, CT scan and x-ray was conducted and as per CT scan report (Ex-P/12) and x-ray report (Ex-P/39), no fracture was found by the doctors on the head and hand of the complainant, but as per query report (Ex-P/35), Dr. P. Singh (PW-12) stated that if the treatment had not been given to the complainant on time, he could have died. In the cross-examination, PW-12 Dr. P. Singh admitted this suggestion of defence that when he primarily treated the injured at that time he did not mention that had he not received treatment on time, he would have died. As per discharge ticket (Ex-D/3), injured Manoj Kumar was admitted in hospital on 16.11.2011 and date of discharge is 22.11.2011.
15. Section 320 of IPC provides as under:-

“The following kinds of hurt only are designated as



“grievous”:

- (1) Emasculation.
- (2) Permanent privation of the sight of either eye.
- (3) Permanent privation of the hearing of either ear.
- (4) Privation of any member or joint.
- (5) Destruction or permanent impairing of the powers of any member or joint.
- (6) Permanent disfiguration of the head or face.
- (7) Fracture or dislocation of a bone or tooth.
- (8) Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.”

16. It is clear from statement of all witnesses that on the date of incident, Manoj Kumar sustained only simple injuries. He was admitted in hospital only for 7 days and not for 20 days so prosecution has failed to prove that on the date of incident, the complainant sustained grievous injuries, but the learned Trial Court only on query report found that the injury of Manoj Kumar was dangerous to life and convicted the appellants under Section 307 of IPC.
17. The Hon’ble Supreme Court in the matter of **Sivamani and another vs State represented by Inspector of Police**, reported in **2023 SCC Online SC 1581** held in para 9 as under:-

“9. In [State of Madhya Pradesh v Saleem](#), (2005) 5 SCC 554, the Court held that to sustain a conviction under [Section 307](#), IPC, it was not necessary that a bodily injury capable of resulting in death should have been inflicted. As such, non-conviction under [Section 307](#), IPC on the premise only that simple injury was inflicted does not follow as a matter of course. In the same judgment, it was pointed out that ‘...The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section.’ The position that because a fatal injury was not sustained alone



does not dislodge [Section 307](#), IPC conviction has been reiterated in [Jage Ram v State of Haryana, \(2015\) 11 SCC 366](#) and [State of Madhya Pradesh v Kanha, \(2019\) 3 SCC 605](#). Yet, in [Jage Ram](#) (supra) and [Kanha](#) (supra), it was observed that while grievous or life-threatening injury was not necessary to maintain a conviction under [Section 307](#), IPC, 'The intention of the accused can be ascertained from the actual injury, if any, as well as from surrounding circumstances. Among other things, the nature of the weapon used and the severity of the blows inflicted can be considered to infer intent.'

18. In view of the law laid down by the Hon'ble Supreme Court, in the present case, it is clear from the evidence available on record that the conviction of the appellants under Section 307 of IPC is not sustainable, as such the finding recorded by the learned Trial Court in this regard is not proper and only Section 323 of IPC can be made out against the appellants.
19. It is clear from the statement of other witnesses that PW-1 Manoj Kumar and PW-2 Mantori Bai sustained only simple injuries so conviction of the appellants under Section 307 of IPC is altered into Section 323 of IPC, as such conviction of the appellants under Section 323 of IPC is hereby affirmed. It is also clear from the statements of the complainant and other witnesses, who categorically stated that on the date of incident, the appellants assaulted the complainant party, as such the conviction of the appellants for other offences is also affirmed.
20. As regards sentence, it is clear that the incident took place in the year 2007, the appeals are pending since 2013, the appellants remained in jail for more than 2 months, presently the appellant



Narayan Prasad is aged more than 60 years, whereas the other appellants are aged between 35-40 years, therefore, ends of justice would be served if the appellants are sentenced to the period already undergone by them. Accordingly, the appellants are sentenced to the period already undergone by them.

21. As regards submission of learned counsel for the appellants that the appellant Narayan Prasad is a government employee, this Court in CRA No.207/12 held in paras 21 & 22 as under:-

“21. We now consider the submission advanced by the learned counsel for the appellants regarding the conviction of Appellant No. 2, who is a government employee and whose conviction may adversely affect his service career. From the evidence on record, the offence does not appear to be one involving moral turpitude. It is further argued that since the evidence against Appellant No.2 is weak and the essential ingredients of Section 304-II/34 IPC are not established, he may be acquitted; or, in the alternative, appropriate observations may be made to ensure that his service prospects are not prejudicially affected.

22. We have considered this aspect. On perusal of the evidence, it does not appear that any act involving moral turpitude was committed by the appellant. In Naresh Markam and others v. State of Chhattisgarh, CRR No. 8 of 2018, decided on 16.05.2018, a Co-ordinate Bench of this Court has categorically held that in petty offences, where the conduct does not amount to moral turpitude, the conviction of the accused would not debar him from government service. Following this principle, we hold that the conviction of Appellant No. 2- Banshi Sahu for the offence under Section 323/34 IPC, for which he has already undergone the sentence of one year's rigorous imprisonment, shall not adversely affect his service. Since the appellants have already undergone the sentence of one year, they are not required to surrender.”

22. In light of above, it is clear that the offence against the appellant Narayan Prasad and other appellants does not appear to be one



involving moral turpitude and the appellant Narayan Prasad has already undergone the sentence for more than 2 months, as such conviction of the appellant Narayan Prasad shall not adversely affect his service. Since the appellants have already undergone the sentence for more than 2 months, therefore, they are not required to surrender.

23. In the result, both the appeals are partly allowed. The impugned judgment of conviction and order of sentence is modified to the extent indicated herein-above.
24. The appellants are reported to be on bail.
25. Keeping in view the provisions of section 481 of BNSS 2023, the appellants are directed to furnish a personal bond for a sum of Rs.25,000/- each before the court concerned forthwith, which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellants on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.
26. The trial Court record along with a copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-

Rajani Dubey
Judge