



2026:CGHC:11593

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****Criminal Appeal No.58 of 2025**

Sanjay Kashyap S/o Late Baijnath Kashyap, aged About 43 Years
R/o Village Ghutrapara Mayapur, Police Station Kotwali,
Ambikapur, District Sarguja Chhattisgarh **... Appellant**

versus

State Of Chhattisgarh Through Station House Officer, Police
Station Madipur, District Sarguja Chhattisgarh **... Respondent**

For Appellant :Shri Amit Singh Chouhan, Advocate.

For Respondent/State :Shri Afroj Khan, PL.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Judgment on Board****11.03.2026**

1. The present Criminal Appeal under Section 415(2) of Bhartiya Nagrik Suraksha Sanhita, 2023 has been preferred by Appellant against the judgment of conviction and order of sentence dated

07.12.2024 passed by the learned 5th Additional Sessions Judge Ambikapur, District Surguja in Sessions Trial No.58/2023, whereby the Appellant has been convicted and sentenced as under:

Conviction	:	Sentence
U/s 307 of IPC for causing injury to Kamlesh (P.W.3)	:	RI for 7 years with fine of Rs.1,000/-, in default of payment of fine, additional RI for 3 months.

2. The prosecution case, in brief, is that on 02.03.2023 at about 01:00 PM the complainant, Ankit Munkar (PW-2), lodged a written report at Police Station Manipur, District Surguja (C.G.), stating that about 7–8 years earlier his father had left the family, after which he was residing with his mother Champa Bai at Mathpara, Ambikapur. It was stated that the present Appellant had performed a engagement ceremony with his mother and thereafter took her to his house at Ghutrapara, where the complainant also started residing along with his sister. However, as the Appellant used to consume liquor and assault his mother, she left him and again started residing at Mathpara. Even thereafter, the Appellant came 4–5 times and assaulted her, regarding which a report was earlier lodged against him and he remained in jail for about one month. On 01.03.2023 at about 10:00 PM, when the complainant was returning home after completing his labour work, he saw his mother lying in a blood-stained condition near the Mathpara bridge. At that time, the Appellant, who is his step-father, was taking her to the

District Hospital for treatment. Upon enquiry, his mother informed him that the Appellant had stabbed her in the abdomen with a knife with the intention to kill her, due to which she sustained a bleeding injury and thereafter, she was admitted to the hospital for treatment.

3. The prosecution has in all examined 8 witnesses and exhibited 24 documents to prove its case. The accused was examined under Section 313 CrPC wherein he pleaded innocence and false implication. After conclusion of trial, considering the evidence of prosecution witnesses and material available on record, learned Trial Court by impugned judgment, convicted and sentenced the Appellant, as mentioned above.

4. At this stage, learned counsel for the Appellant submits that he does not challenge the finding of conviction and confines his argument to the sentence part only, which according to him is on higher side. He further submits that the occurrence is related to the year 2023 and the accused Appellant has so far suffered a sentence of about 3 years and 9 days out of total sentence of 7 years' RI. He further submits that as per medical report, the injuries sustained by the victim were simple in nature. It is, therefore, prayed that the sentence awarded to the Appellant for the aforesaid offence may be reduced to the period already undergone by him.

5. Per contra, learned State Counsel supports the impugned judgment and opposes the arguments advanced on behalf of the Appellant.

6. I have heard learned counsel for the parties and have also perused the material available on record including the impugned judgment.

7. Having gone through the material available on record and the statements of witnesses especially Dr. Manoj Bharti (PW-4) and Dr. Mithilesh Minz (PW-5), this Court does not find any illegality or infirmity in the findings recorded by the trial Court as regards the conviction of the Appellant for the offence under Section 307 IPC, which is hereby affirmed.

8. As regards sentence, in **Mohammad Giasuddin v. State of Andhra Pradesh** reported in **(1977) 3 SCC 287**, Hon'ble Supreme Court has observed that if you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries and held in para-9 as follows:

“9. Western jurisprudes and 'sociologists, from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817 :

"The laws of England are written in blood". Alfieri has suggested : 'society prepares the

crime, the criminal commits it'. George Nicodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education.' It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by reculturation. Therefore, the focus of interest in penology is the individual, and goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore consider a therapeutic, rather than an in 'terrorem' outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw : 'If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Jeffrey Streatfield : "If you are going to have anything to do with the criminal Courts, you should see for yourself the conditions under which prisoners serve their sentences."

9. Applying the analogy laid down in **Mohammad Giasuddin** (supra) and keeping in view the fact that the sentence imposed upon the Appellant is 7 years under Section 307 IPC, out of which, he has already served the jail sentence of 3 years and 9 days and he is poor laborer and further he has no previous record and further considering that the incident pertains to the year 2023 and

the Appellant has faced prolonged litigation, this Court is of the opinion that the ends of justice would be adequately met if, while maintaining the conviction of the Appellant under Section 307 IPC, the substantive sentence of imprisonment awarded to him is reduced to the period already undergone.

10. Consequently, the Appeal is **partly allowed**. The conviction of the Appellant under the aforesaid provision is affirmed, but the sentence of imprisonment is reduced to the period already undergone. The sentence of fine shall remain in tact.

11. In the result, the Appeal is **allowed in part** to the extent indicated hereinabove.

12. The Appellant is in jail. He shall be released from jail forthwith if not required in any other offence.

13. Let a certified copy of this judgment along with the original record be transmitted to the concerned trial Court forthwith for information and necessary action. A copy of this judgment be also sent to the concerned Superintendent of Jail where the Appellant is undergoing jail sentence.

Sd/-

(Sanjay Kumar Jaiswal)
Judge