

Single Bench

**IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT  
BILASPUR (C.G.)**

**Criminal Appeal No. 509 /2011**

**(Single Bench Matter)**

**APPELLANT**  
**(in jail)**

Jaiprakash Sahu S/o (late)  
Parasram Sahu, aged 30  
years, R/o Darri, Police  
station Arjuni District  
Dhamtari (C.G.)

F.R. No. ....

Presented by Sh. ....

Dated ....

(R)

**VERSUS**

**RESPONDENT**

State of Chhattisgarh  
Through; District Magistrate  
District Dhamtari (C.G.)

**CRIMINAL APPEAL U/S. 374 (2) OF THE CODE OF  
CRIMINAL PROCEDURE**



24.2.14

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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Single Bench : Hon'ble Shri Justice P. Sam Koshy**

**Criminal Appeal No. 509 of 2011**

**Appellant**

Jaiprakash Sahu

**VERSUS**

**Respondent**

State of Chhattisgarh

Shri Punit Ruparel, counsel for the appellant.  
Shri Arvind Shukla, Panel Lawyer for the State.

**CRIMINAL REVISION UNDER SECTION 397/401 OF THE  
CODE OF CRIMINAL PROCEDURE**

**J U D G M E N T**

**(31.01.2014)**

By way of the instant appeal the appellant has challenged the judgment dated 30.06.2011 passed by the Additional Sessions judge, Dhamtari in Sessions Trial No.09/2011 convicting the appellant under section 307 and 324 of IPC and sentencing him to undergo rigorous imprisonment for seven years with fine of Rs. 2,000, in default of payment of fine to further undergo rigorous imprisonment for six months u/s 307 of IPC and rigorous imprisonment for two years u/s 324 of IPC

2. Facts leading to the instant appeal are that the marriage of the appellant was solemnized with Jayanti Bai (PW-11) about five years prior to the date of incident. From the said marriage between appellant and Jayanti Bai two children were born to them. Subsequently, relations between

them got strained as the appellant started harassing PW-11 Jayanti Bai for insufficient dowry, therefore, PW-11 left her matrimonial house with her two children and started living at her parent's house. That on 24.01.2011 at about 11 a.m. the accused/appellant had come to the house of his father-in-law (PW-12) for taking back his wife PW-11 and children but his father-in-law (PW-12) refused to do so by saying that only after meeting with the elders of the society he can take his wife and children. Upon this, accused/appellant got annoyed and took out a sickle (*Hasia*) from his motorcycle and assaulted his mother-in-law (PW-9) and father-in-law (PW-12) with the said sickle as a result of which PW-9 and PW-12 sustained injuries on various part of their body. Brother of PW-11 namely Keshav Sahu (PW-10) reported the matter to the Police based on which FIR Ex.P-17 was registered against the appellant for the offence under sections 307 and 294 of IPC. After completion of investigation, charge sheet was filed against the appellant for the offence under sections 307, 324, 498 A and 294 of IPC and accordingly charges were framed against him.

3. In order to establish the guilt of the accused/appellant, prosecution has examined 15 witnesses in support of its case. Statement of the accused/appellant was recorded under Section 313 of the Cr.P.C. in which he denied the charges levelled against him and pleaded his innocence and false implication in the case.



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4. After considering all the evidences that have come on record and the contentions put forth by the parties, the trial Court acquitted the accused/appellant of the charges under sections 498-A and 294 of IPC but convicted him for the offence under sections 307 and 324 of IPC and sentenced him to undergo rigorous imprisonment for seven years with fine of Rs.2,000, in default, RI for six months u/s 307 of IPC and RI for two years u/s 324 of IPC. Hence the present appeal.

5. On perusal of the evidence of PW-12 - father-in-law and PW-9 - mother-in-law of the appellant who were assaulted by the appellant it is clear that when the appellant had come to their ~~house~~ to take his wife and children back, he had taken a sickle with him by which he attacked PW-9 and PW-12 causing grievous injuries to them. Dr. Vina Chatterjee (PW-15) who medically examined PW-9 and PW-12 had found simple injury on the back side head of PW-12 whereas lacerated wound on left wrist, right forearm and left and right side neck of PW-9. According to the doctor, if the injury sustained by PW-9 on her neck was not treated, it would have become dangerous to her life.

6. From the evidences that have come on record there is no doubt that the prosecution has been able to prove its case beyond reasonable doubt and therefore the judgment impugned passed by the court below is proper, legal and

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justified calling for no interference by this Court.

7. However, taking into consideration the fact that PW-11, wife of the appellant has made a categorical statement before the Court below that in spite of all these development, she is still willing to stay with her husband provided the appellant lives separately from his family members.

8. That in the event the appellant is not let out early, the family life of his wife and children would get disturbed and would have an adverse impact. Similarly, the evidence that has come on record reflects that the entire dispute was of a family dispute and the incident took place only because PW-12 stopped the appellant from taking his children and wife back with him. This aspect has also been proved from the statement of PW-11, wife of the appellant wherein she has stated that had her father not stopped the appellant taking the children with the appellant, the incident would not have happened. Therefore, from the evidence on record it is clear that the incident happened on the spur of moment and there was no premeditation on the part of the appellant to assault his parents-in-law. It is also admitted fact that the appellant is in jail since 24.01.2011 and has already completed more than 3 years jail sentence. The fact, that there was a family dispute is also established from the statement of PW-3, the in-charge of the Family Conciliation Center who in her evidence has stated that an application was moved by the appellant for calling PW-11 on the conciliation center in



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respect of the dispute between the parties.

9. As regards the sentence, taking the family aspect into consideration and also the fact that PW-11, wife of the appellant is still ready to stay with the appellant in spite of all the development, it would be more appropriate if the appellant is released at the earliest so that his wife PW-11 and children would get some sort of relief to live with him.

10. In view of the same, maintaining the conviction of the appellant as granted by the Sessions Court, I am of the opinion that it would be in the interest of justice if the sentence awarded to the appellant is reduced.

11. Accordingly, the conviction part of the impugned judgment is maintained but the sentence imposed on the appellant is reduced to RI for four years from that of seven years.

12. Revision thus partly succeeds.

Sd/-  
P. Sam Koshy  
Judge