

Non-Reportable**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 1078 OF 2023
(Arising out of S.L.P.(Criminal) No.6116 of 2019)****PANCHRAM****...Appellant*****Versus*****THE STATE OF CHHATTISGARH
& ANR.****...Respondents****J U D G M E N T****Rajesh Bindal, J.**

Leave granted.

1. The accused has filed the present appeal challenging his conviction and sentence. The impugned judgment of the High Court dated 11.10.2018 is under appeal *vide* which judgment and order of sentence dated 30.05.2000 passed by the Trial Court was upheld. The conviction and sentence of the appellant is as under:

<u>Section</u>	<u>Sentence</u>
341 IPC	RI 1 month
506 B IPC	RI 6 months
307 IPC	RI 5 years and fine of ₹1,500/-, in default of payment to further undergo RI 1 year.

2. The case of the prosecution as is evident from the F.I.R. is that on 04.05.1999 at about 7.15 P.M. when the complainant Salikram was returning back from pond after taking bath, near the barn of Prasanna Kumar, the appellant stopped him, abused and threatened him to kill. Rajkumar alias Munna (PW 6) was also with him. The appellant caused injuries on the left side of his abdomen and left thigh with scissors. The appellant had doubted that the injured had illicit relations with his wife.

3. The argument raised by the learned counsel for the appellant is that it is a case of sudden fight with no intention of the appellant to cause any injuries to the complainant. The injuries are also not serious which could cause death. There is no weapon as such used. The allegation is only scissors was there. In fact, the appellant was doing the work of tailoring. Many times, he just carries the scissors. The fight was on account of the fact that the complainant was having an evil eye on the wife of the appellant. He had even admitted this fact in his cross-

examination. In these circumstances, if there was sudden fight, it cannot be said to a case in which *mens rea* is there. He also referred to a document placed on record in the form of a compromise deed dated 30.04.2019 between the parties.

4. On the other hand, learned counsel for the State submitted that it is a case in which the appellant had caused injuries to the complainant with a sharp-edged weapon on the vital part of the body. Hence, his conviction and sentence under Section 307 of the Indian Penal Code, 1860 (hereinafter "IPC") cannot be faulted with.

5. Heard learned counsel for the parties and perused the paper-book.

6. The incident in the case had taken place 23/24 years ago. The root cause, as per the stand of the appellant is that the injured was having inappropriate relations with his wife, is not a matter of dispute as the injured in his cross-examination had admitted this fact. In the complaint filed by the injured on the basis of which F.I.R.

was registered, he stated that Rajkumar alias Munna (PW 6) was accompanying the appellant when he caused injuries. However, he was declared hostile. The weapon used is a scissors which is not a normal weapon of offence in case there is any intention to cause death. The appellant was doing the work of a tailoring. As per the injury report, there was a scratch below the neck, incised wound on the left thigh and a small cut size 1 ½ cm x 1 cm x 5 cm below the ribs.

7. In his statement, the injured appearing as PW-1 submitted that when Munna (PW 6) shouted for help, Kantilal (PW 8) and Radheyshyam (PW 9) came there and seeing them the accused ran away. However, Kantilal (PW 8) was declared hostile. The prosecution had produced another witness Radhey Shyam (PW 7). He was also declared hostile and did not support the prosecution version. Even the scissors which was seized by the police is small scissors which is used by tailors. With the aforesaid evidence on record and the kind of weapon used, in our view the offence will not fall within Section 307 I.P.C. From

the reasons for fight as are emerging on record, it doesn't seem to be pre-planned act. It, at the most, can fall within the four corners of Section 326 IPC as a sharp-edged weapon was used. The injuries were not caused with an intention to cause death and were not sufficient to cause death. Hence, in our view the conviction of the appellant with respect Section 307 IPC cannot be sustained however the offence under Section 326 IPC is made out. The conviction for other offences namely under Sections 341 IPC and 506B IPC are sustained.

8. At the time of hearing, it was pointed out that the appellant had already undergone actual sentence of 11 months and 24 days. Considering the fact that the incident had taken place about 23/24 years ago, in our view the sentence awarded to the appellant deserves to be reduced to the period already undergone. The amount of fine imposed is sustained. In case of non-deposit of fine, the appellant shall undergo imprisonment for a period of one month.

9. The impugned judgments passed by the Courts below are modified to the extent mentioned above and the appeal is allowed.

.....J.
[Abhay S. Oka]

.....J.
[Rajesh Bindal]

New Delhi
11th April, 2023