



CGHC010131932011



2026:CGHC:39483

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 279 of 2011

- 1 - Hasmat Ulla @ Asmat @ Assu, S/o Shri Barkatulla Khan, aged about 28 years, occupation business, R/o Over bridge ke Nichhe, Khamtarai, P.S. Khamtarai, Raipur, District Raipur (CG)
2. Ahmad Ulla @ Ajmal Khan, S/o Shri Barkatulla, aged about 32 years, occupation – service, R/o Hotel Hani Ke Baaju, Main Road, Khamtarai, Raipur (CG)

... Appellants

versus

State Of Chhattisgarh through District Magistrate, Raipur, District Raipur (CG)

... Respondent

For Appellants	: Mr. Kishan Kumar Yadav, Advocate.
For Respondent/State	: Mr. Vikhyat Arora, Panel Lawyer

Hon'ble Shri Justice Naresh Kumar Chandravanshi, J

Judgment On Board

(09th September, 2026)

This criminal appeal under Section 374(2) of CrPC has been preferred challenging the judgment of conviction and order of sentence dated 31.3.2011 passed by II Additional Sessions Judge, Raipur in ST

No.192/2009 whereby the appellants stand convicted and sentenced as under:

Conviction	Sentence
<u>Appellant No.1 Hasmat Ulla @ Asmat @ Assu</u> Under Section 323 of Indian Penal Code.	RI for six months, pay a fine of Rs.500/- and in default thereof to suffer additional SI for two months.
Under Section 324 of Indian Penal Code.	RI for two years, pay a fine of Rs.1000/- and in default thereof to suffer additional SI for four months.
<u>Appellant No.2 Ahmad Ulla @ Ajmal Khan</u> Under Section 323 of Indian Penal Code.	RI for six months, pay a fine of Rs.500/- and in default thereof to suffer additional SI for two months.

Both the sentences awarded to appellant No.1 were directed to run concurrently.

2. Facts of the case, in brief, are that on 12.08.2009, the complainant, Uday Jain, was standing near Honey Hotel situated on Main Road, Khamtarai Basti, and was smoking a cigarette while talking to his friend Vikas Yadav. At that time, accused Hasmat Ulla Khan (appellant No.1), the proprietor of Goodwill Kirana Stores situated adjacent to Honey Hotel, along with his brother Ahmad Ullah Khan (appellant No.2), came there and questioned them as to why they were smoking cigarettes in front of their shop. They abused the complainant

and his friend in filthy and obscene language. When they objected to such abuses, the accused/appellants threatened to kill them. Thereafter, they went to their house, brought a *Rampa* (spade) and an iron rod, and assaulted Vikas Yadav, causing him grievous injuries. During the course of the incident, when the complainant Uday Jain intervened to save Vikas Yadav, the accused persons also assaulted him. Thereafter, report was lodged by complainant Uday Jain and after completion of investigation, charge sheet under Sections 294, 323, 506, 307, 34 of IPC was filed against the appellants.

3. Learned Additional Sessions Judge framed charges against the appellants under Sections 294, 323 and 307/34 of IPC which were denied by them. The prosecution, in order to prove its case, examined as many as 10 witnesses. Thereafter, statements of the accused persons under Section 313 of CrPC were recorded in which they denied all the incriminating circumstances appearing against them in the prosecution case, pleaded innocence and false implication. However, they did not examine any witness in their defence.

4. Learned trial Court after hearing counsel for the respective parties and appreciation of oral and documentary evidence on record, by the impugned judgment while acquitting both the appellants of the charge under Section 294 of IPC and appellant Ahmad Ulla of the charge under Section 307/34 of IPC, convicted both the appellants under Section 323 of IPC for voluntarily causing simple hurt to Vikas

Yadav and Uday Jain respectively. Appellant Hasmat Ulla was also convicted under Section 324 of IPC instead of 307 of IPC for causing injury to Vikas Yadav by means of spade.

5. At the outset, learned counsel for the appellants would submit that he does not want to press this appeal with regard to conviction part of the impugned judgment against the appellants, rather he would confine his arguments only to the sentence part. He submits that though the appellant No.1 Hasmat Ulla assaulted the victims by means of spade but the injuries sustained by both the victim were simple in nature. He further submits that the appellants were in jail during trial from 3.9.2009 to 27.10.2009 and thereafter, from the date of passing of impugned judgment i.e. 31.3.2011 to their release on bail pursuant to the order dated 6.4.2011 passed by this Court whereby the jail sentence imposed on them was suspended and they were granted bail. Thus, they remained in jail for about 65 days, therefore, their jail sentence may be reduced to the period already undergone by them.

6. Per contra, learned counsel for the State would submit that though no grievous injury was found on the body of the victim Vikas Yadav but appellant No.1 Hasmat Ulla had caused him injury by means of spade with intention to kill him. Learned trial Court upon minute appreciation of oral and documentary evidence on record has rightly convicted and sentenced the appellants by the impugned judgment, which calls for no interference by this Court.

7. Heard learned counsel for the parties and perused the material available on record including the impugned judgment.

8. Though learned counsel for the appellants is not pressing this appeal on conviction part of the impugned judgment but as per deposition of both the victims namely Uday Jain (PW-2) and Vikas Yadav (PW-7) and their medical reports which have been duly proved by PW-1 Dr. Manish S. Shrivastava, this Court is of the opinion that conviction of the appellants recorded by learned trial Court under Sections 323 and 324 of IPC does not suffer from any illegality or perversity warranting any interference by this Court. Being so, conviction of appellant No.1 Hasmat Ulla @ Asmat @ Assu under Sections 323 and 324 of IPC and that of appellant No.2 Ahmad Ulla @ Ajmal Khan under Section 323 of IPC is hereby affirmed.

9. So far as sentence part is concerned, having considered the nature of injury sustained by both the victims and other attending facts and circumstances of the case, keeping in view the fact that the incident took place way back in the year 2009, they have no criminal antecedents and that they have served jail sentence of about 65 days, this Court is of the view that no useful purpose would be served in keeping the appellants in further detention to complete the jail sentence awarded to them by the trial Court, rather the ends of justice would be served if their jail sentence under the aforesaid sections is reduced to the period already undergone by them.

10. In the result, the appeal is partly allowed. While maintaining conviction of the appellants under Sections 323, 324 and 323 of IPC respectively, the jail sentence awarded thereunder by learned trial Court is hereby reduced to the period already undergone by them which comes to about 65 days. The impugned judgment stands modified to the above extent.

11. The appellants are reported to be on bail, therefore, their bail bonds shall remain in operation for a further period of six months as per provisions contained in Section 481 of BNSS, 2023.

12. The record of the trial Court along with copy of this judgment be sent back immediately to the trial Court concerned for compliance and needful, if any.

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**Sd/
(Naresh Kumar Chandravanshi)
Judge**