

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 1607 of 1998

1. Chinna alias B.V. Prasad, S/o Jagga Rao, aged about 19 yrs.
2. Devi Prasad, S/o Jagga Rao, aged about 21 yrs.
3. B. Jagga Rao, S/o B. Surya Narayan, aged about 53 years.

All the above named appellants are resident of Qr. No. 103-B, Zone I, Bhilai Marshalling Yard, Charoda, Tehsil and District – Durg (C.G.)

--- Appellants

Versus

- The State of Madhya Pradesh (Now Chhattisgarh)

--- Respondent

For Appellants	:	Shri M.D. Dhote, Advocate
For Respondent / State	:	Shri Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Inder Singh Uboweja

CAV JUDGMENT

Passed on : 13 /07/2015

- 1) By filing this criminal appeal, the appellants have challenged the legality, validity and propriety of the judgment of conviction and order of sentence dated 10.07.1998 passed by the Additional Sessions Judge, Durg in Sessions Trial No. 262 of 1996, whereby and whereunder the trial Court, after holding the appellants guilty for causing grievous hurt, convicted the appellants under Section 326 of the IPC and sentenced them to undergo rigorous imprisonment for ten years and fine of Rs. 2,000/-, in default of payment of fine to further undergo additional imprisonment for 6 months to each appellant.
- 2) As per case of prosecution, on 17.05.1995 at about 12.45 p.m., in front of Qtr. No. 105, Bhilai Marshalling Yard, Charoda, appellants/ accused have assaulted and cut the left wrist of complainant M. Jagannath Rao (PW-7) by *Gandasa* (cutting object) and caused

grievous hurt. FIR was lodged on 17.05.1995 at about 1.00 p.m. at police station, G.R.P. Charoda by Smt. M. Ramanna (PW-6), mother of the complainant. Police of Charoda registered a case bearing Crime No. 15/62 dated 17.05.1995 for the offence punishable under Section 307/34 against the appellants, thereafter, arrested the appellants and finally charge-sheet was filed against them.

- 3) In order to prove the guilt of the accused/appellants, the prosecution examined as many as twelve witnesses. Statements of the accused/appellants were recorded under Section 313 of the Code, in which they denied the circumstances appearing against them and pleaded innocence and false implication in the crime in question.
- 4) After providing opportunity of hearing to the parties, the trial Court convicted & sentenced the appellants as aforementioned.
- 5) I have heard learned counsel for the parties, perused the judgment impugned and record of the trial Court.
- 6) Mr. M.D. Dhote, learned counsel for the appellants, submitted that he did not dispute the conviction of the appellants under Section 326 of the IPC. He further submitted that the appellants have been convicted under Section 326 of the IPC and they have already served more than 3 years and 3 months of imprisonment and now they are on bail. He also submitted that the incident occurred on 17.05.1995 and appellants were facing criminal proceedings for the last 20 years, instead of sending them to jail again, which will not serve any purpose of criminal justice, they may be adequately sentenced by enhancing the fine amount, if the Court thinks it fit.

- 7) On the other hand, learned Panel Lawyer for the State opposed these arguments and supported the judgment passed by the Additional Sessions Judge, Durg.
- 8) Considering the entire evidence adduced on behalf of the prosecution, which is sufficient and acceptable that the prosecution has duly proved the guilt of the accused/appellants, I am of the view that the trial Court has rightly convicted the appellants under Section 326 of the IPC and I hereby affirmed the judgment of conviction against the appellants.
- 9) So far as the quantum of sentence is concerned, the appellants have served for more than 3 years and 3 months jail sentence awarded to them and the appellants have been facing the criminal proceedings and contesting the litigation for justice for last more than 20 years, therefore, it would be proper and just to reduce the sentence of imprisonment and enhance the fine amount imposed upon them.
- 10) Looking to the totality of the facts and circumstances, I am of the opinion that no purpose would be served in sending the appellants back to jail as the object of criminal justice would be served in awarding the sentence of imprisonment already undergone by them and enhancing the fine amount.
- 11) Consequently, the appeal is partly allowed. Conviction of the appellants awarded by the trial Court under Section 326 of the IPC is hereby affirmed, but the sentence awarded to them by the trial Court is modified and instead of R.I. for 10 years they are sentenced to undergo imprisonment for the period already undergone by them and fine amount is enhanced from Rs.2,000/- to Rs. 10,000/- each. The

appellants shall pay remaining amount before the trial Court within a period of 60 days from today. All the fine amount should be given to the victim / complainant, M. Jagannath Rao, resident of Indira Nagar, Charoda.

- 12) Appellants are on bail. Their bail bonds shall continue for a further period of 6 months as per requirement of Section 437-A of the Cr.P.C.

Sd/-
(I.S.Uboweja)
JUDGE