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**IN THE HIGH COURT OF JUDICATURE OF**  
**CHHATTISGARH AT BILASPUR**

Criminal Appeal 429...../2002

**APPELLANTS**

:

1. Set Lal  
S/o Mohar Ram Marar,  
Aged about 30 years.
2. Basan Lal  
S/o Mohar Ram Marar  
Aged about 25 year.

Both are R/o Jogopali, Thana Basana,  
Distt. Mahasamund (C.G.)

3. Ganga Ram  
S/o Sahas Ram Marar,  
Aged about 27 years  
R/o Village Gudiyari Thana Basana  
Distt. Mahasamund (C.G.)

**VERSUS**

**RESPONDENT**

:

State of Chhattisgarh  
Through P.S. Basana  
Distt. Mahasamund (C.G.)

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

Filed on 26-2-02  
by Shri P. S. Bajel  
Advocate  
R. to D.R. (J)



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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Criminal Appeal No. 479 of 2002**

**Appellants** : Set Lal and others

**Versus**

**Respondent** : State of Chhattisgarh

**For Pronouncement of Judgment**

21.01.2015

Sd/-  
Inder Singh Ubeweja  
Judge

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRIMINAL APPEAL No. 479 of 2002**

- SET LAL
- BASAN LAL
- GANGA RAM

---- **Appellants**

**In Jail**

**Versus**

- STATE OF CHHATTISGARH

---- **Respondent**

Memo of Appeal Under Section 374 (2) of the Code of Criminal  
Procedure, 1973

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For appellant : Mr. Vikram Dixit Advocate  
For Respondent/State : Ms. Sangeeta Mishra, Panel Lawyer

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**Hon'ble Shri Justice Inder Singh Uboweja, JJ.**

**JUDGMENT**

21 \_\_.01.2015

Challenge in this appeal is to the judgment of conviction and order of sentence dated 04.04.2002 passed by the First Additional Sessions Judge, Mahasamund, whereby and whereunder the Court below, after holding the appellants guilty for causing injuries to the complainant - Ramlal on his person and private parts, the Court below convicted both the appellants under Section 323 of the I.P.C. and sentenced them to one year RI with fine of Rs.1000/- and in default to under further RI for three months each.

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2. Conviction is impugned on the ground that without there being any iota of evidence against the appellants, the Court below has convicted and sentenced the appellant as aforesaid and thereby committed illegality.

3. As per prosecution story, there was land dispute between the complainant – Ramlal and the appellants. On 15.02.2001 at about 11.30 am, the complainant – Ramlal left his village for village Kurupali (Orissa) on his bicycle for distributing marriage cards. When he was passing through the jungle ahead of village Medinipur, the appellants, who came on their T.V.S. Motorcycle, stopped the complainant and assaulted him by *lathis* (sticks), upon which, the complainant made hues and cries, then the appellants fled away from the spot. The complainant lodged Dehati Nalishi vide Ex.P.13 and F.I.R. was registered vide Ex.P.14. He was sent for medical examination to Government Hospital, Basna, vide Ex.P.1(A).

4. Investigating Officer moved for occurrence place, he prepared the spot map vide Ex.P.5 and seized bloodstained soil and plain soil vide seizure memo Ex.P.8. Appellants were taken into custody and accused – Basant made discovery statement of two sticks, which were seized at his instance vide Ex.P.11. Query report was sent and received vide Ex.P.2(A). Seized articles were sent to F.S.L. for chemical examination.

5. Statements of witnesses under Section 161 of the Code of Criminal Procedure, 1973 (for short 'the Code') were recorded.

6. After completion of investigation, charge sheet was filed before the J.M.F.C. Saraipali, who in turn committed the case to the Sessions Judge, Raipur.

7. In order to prove the guilt of the appellant, prosecution examined as many as 8 witnesses. The accused persons were examined under

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Section 313 of the Code in which they denied the circumstances appearing against them and innocence and false implication in crime in question was claimed.

8. After providing an opportunity of hearing to the parties, the learned 1<sup>st</sup> Additional Sessions Judge convicted and sentenced the appellants as aforementioned.

9. Mr. Vikram Dixit, learned counsel for the appellants submits that he is not disputing the conviction of the appellants under Section 323 of the I.P.C. but submits that the appellants were in custody since 16.02.2001 till 20.03.2001. Thereafter, they also remained in custody for short periods in jail. More than fourteen years have passed after occurrence took place. They have been facing judicial proceedings since February 2001. Therefore, again sending the appellants to jail, 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.

10. On the other hand, Ms. Sangeeta Mishra, learned counsel for the State opposed the appeal and submits that the appellants have committed criminal offence and the Court below has rightly convicted and sentenced the appellants, which does not call for the interference by this Court.

11. Considering the entire evidence adduced on behalf the prosecution is sufficient and acceptable. The prosecution duly proved the guilt of both the appellants. I am of the view that the trial Court has rightly convicted the appellants under Section 324/34 of the I.P.C. and I hereby affirm the judgment of conviction against the appellants.

12. So far as the quantum of sentence is concerned, considering the period of prosecution launched against the appellants, period of detention,



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age of the appellants and looking to the totality of the circumstances appeared before this Court, I am of the view 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 already undergone by them.

13. Consequently, the appeal is partly allowed. Conviction of the appellants awarded by the trial Court is hereby affirmed, but, their sentence awarded by the trial Court is modified and instead of rigorous imprisonment of one year with fine of Rs.1000/- each, they may be adequately sentenced to rigorous imprisonment for the period already undergone by them. However, the sentence of fine amount is enhanced to Rs.2000/- more each. The appellants shall pay remaining amount of fine of Rs.1000/- each, in addition to the fine already imposed on them by the trial Court, within a period of 60 days from today before the trial Court.

Sd/-  
Inder Singh Ubewaja  
Judge

Anjani

N.A.F.R