

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 119 of 2005

1. Ghasiram @ Bulthu, Aged about 50 years, S/o Bhogiram Sonra
 2. Vedeshi @ Khubu, Aged about 25 years, S/o Ghasiram Bulthu
- All R/o Village Nandeli, Thana Jaijaipur, District Janjgir Champa (C.G.)
- Appellants**

Versus

- State of Chhattisgarh, Through Police Station – Jaijaipur, District Janjgir Champa (CG).

---- Respondent

For Appellants	:	Mr. Anand Shukla, Advocate.
For Respondent/State	:	Mr. Suryakant Mishra, Panel Lawyer.

Hon'ble Shri Justice Inder Singh Uboweja

CAV JUDGMENT

Delivered on 23-09-2015

1. Challenge in this appeal is to the judgment of conviction and order of sentence dated 04-02-2005 passed by the Additional Sessions Judge, Sakti, District Bilaspur (C.G.) in S.T. No.394/2004, convicting each of the accused/appellants under Sections 325 and 323 read with Section 34 of the IPC and sentencing to undergo rigorous imprisonment for one year and pay fine of Rs.700/-, in default of payment of fine to further undergo RI for two months each and to undergo RI for three months each. Both the sentences were directed to run concurrently.
2. During the pendency of the appeal one appellant namely Johan @ Konda has expired and case is abated against him.
3. The case of the prosecution, in brief, is that on 15-06-2004, there was a dispute and talk between the complainant Manharanlal and

appellant No.1 Ghasiram as he closed the drain and thereafter on the next day i.e. 16-06-2004 when the complainant was standing near the Pan Shop, the appellants came and beaten the complainant with iron rod and lathi and in consequence, the complainant received injuries on his head and fracture on finger etc. and in the incident Manharan Kenwat and Bharat Kenwat also received injuries.

4. Complainant Manharan lodged a report which was registered FIR Ex. P-1. All the injured persons were sent for examination and treatment. During investigation, medical reports were received and statement of witnesses was recorded, map was prepared, articles were seized and challan was filed against the accused/appellants. Trial Court charged all the accused persons under Sections 294, 307 and 323 read with Section 34 of IPC. They denied the charges and pleaded innocence and falsely implication in the criminal case. Accused also examined 02 defence witnesses namely Ghasia Kenwat (DW/1) and Rendhiya Kenwat (DW/2) in support of their case.
5. After providing opportunity of hearing to the parties, learned Additional Sessions Judge convicted and sentenced the accused/appellants as aforementioned.
6. I have heard counsel for both the parties and perused the judgement impugned including record of the trial Court.

7. Mr. Anand Shukla, learned counsel appearing for the appellants submits that in the present case he is not disputing the conviction of the accused/appellants but he is pressing about sentences awarded to the appellants. His submission is that more than 11 years have passed and appellants have already served more than two months custody/imprisonment and they were enjoying bail. One appellant Vedeshi @ Khubu is in custody and serving the jail sentence since 28-07-2015. They have served sufficient sentences, therefore, the accused/appellants may be sentenced to undergo imprisonment for the period already undergone by them and fine amount may be enhanced for the purpose of criminal justice.
8. On the other hand, learned State counsel opposing the appeal submits that the appellants have committed criminal offence and the Court below has rightly convicted and sentenced them.
9. Considering the entire evidence adduced on behalf of the prosecution is sufficient and acceptable. The prosecution has duly proved the guilt of both the appellants, I am of the view that trial Court has rightly convicted the appellants under Sections 325 and 323 read with Section 34 of the IPC and I hereby affirm the judgment of conviction against the appellants.
10. So far as the question of sentence is concerned, appellant No. 1 - Ghasiram served for more than two and half months jail sentence and appellant No. 2 – Vedeshi has served for more than three

months jail sentence. The appellants are facing criminal trial and contesting the litigation for the last more than 11 years. Considering the facts of the case and nature of injuries, it would be proper and just to reduce the sentence of imprisonment imposed upon the appellants.

11. 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 appellant Ghasiram back to jail as the object of criminal justice would be served in awarding the sentence already undergone by them.
12. Consequently, the appeal is partly allowed. Conviction of the appellants awarded by the trial Court is hereby affirmed but their sentences awarded by the trial Court is modified and reduced the sentence to undergo imprisonment for the period already undergone by them.
13. It is reported that the appellant No.1 Ghasiram is on bail, his bail bonds shall continue for a further period of six months from today, as required under Section 437A of the Code of Criminal Procedure and appellant No. 2 Vedeshi @ Khubu is in custody. He is set at liberty at once, if he is not required in any other case.

Sd/-

(I.S. Uboweja)
JUDGE