

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No.52 of 2015**

Meena Ram, Son of Rewaram Lodhi, aged about 40 years, Occupation- Agriculturist, resident of Village Parasbod, Police Station- Saja, District Bemetara, Chhattisgarh

---- Appellant**versus**

1. State of Chhattisgarh, Through the Station House Officer, Police Station-Saja, District Bemetara, Chhattisgarh.
2. Barati @ Bhondu, son of Rewaram Lodhi, aged about 52 years, Occupation- Agriculturist.
3. Smt. Taran Bai, wife of Barati @ Bhondu Lodhi, aged about 42 years,
Respondents No.2 and 3 are resident of Village Parasbod, Police Station Saja, District Bemetara, Chhattisgarh

---- Respondents

For Appellant	: Ms. Sharmila Singhai, Advocate
For Respondent No.1/State	: Ms. Smitha Ghai, Panel Lawyer.
For Respondents No.2 and 3	: Shri Praveen Dhurandhar, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per Navin Sinha, Chief Justice****5/10/2015**

1. This appeal is held not to be barred by limitation in view of the Full Bench decision in Acquittal Appeal No.96 of 2012/ 121 of 2012.
2. The Appellant questions the conviction of Respondents No.2 and 3 dated 5.2.2014 in Sessions Trial No.64 of 2012 under Section 325/34 IPC and sentence of fifteen days rigorous imprisonment each along with fine of Rs.1,000/- only, failing which they were required to undergo five days additional rigorous imprisonment.
3. Learned Counsel for the Appellant submitted that Respondent No.2 is alleged to have assaulted brutally with babool stick leading to repeated fractures on the hand requiring insertion of an iron rod incapacitating the victim for nearly two months. The conviction under Section 325/34 IPC was

therefore not justified and in any event the sentence of fifteen days imprisonment only was highly inadequate.

4. Learned Counsel for Respondents No.2 and 3 opposing the appeal submitted that the order of the Trial Judge is well reasoned and calls for no interference.

5. We have heard Learned Counsel for the State also.

6. Respondent No.3 is the wife of Respondent No.2. The Appellant is the younger brother of Respondent No.2. There is a land dispute between them. The Trial Judge has opined that keeping this factor in mind, it was not a fit case for imposition of harsh punishment. There is another accusation with regard to the same incident against the younger brother of Respondent No.2 in which we are informed that the Appellant and his brother are in jail. The Trial Judge has also noticed that the Appellant suffered fracture of ulna requiring operation by insertion of an iron rod, medication and his hand was put in plaster for two months. Respondent No.3 is generally alleged to have assaulted by fists.

7. Considering the nature of close blood relationship between the parties, the trivial nature of the origin of dispute, either of them is not stated to be a hardened regular criminal, we are satisfied that the conviction as ordered by the Learned Trial Judge calls for no interference.

8. But, keeping in mind the very same aspects as also that the Appellant was incapacitated from performing normal duties as an agriculturist for approximately two months, we consider it appropriate to enhance the compensation amount against the two Respondents cumulatively to Rs.5,000/- to be paid to the Appellant within six weeks, failing which they will have to undergo 25 days of custody each.

9. The appeal is allowed to the extent ordered.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE