

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**( Single Bench : Hon'ble Shri I.S. Uboweja, J )**

**Criminal Appeal No. 1515 of 1997**

1. Goindia aged about 50 years, s/o. Mangloo Mariya r/o. Village Nontikralo Hanga, PS Jagdalpur, District Bastar.
  2. Hemnath aged about 23 years s/o. Goindia Muriya, r/o. Village Nontikralo Hanga, PS Jagdalpur, District Bastar.
- Appellants.

**Versus**

- State of MP (Now State of Chhattisgarh) through the PS Jagdalpur, Tehsil Jagdalpur, District Bastar (CG).

--- Respondent

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For Appellants : Mr. Vishnu Koshta, Advocate.

For respondent : Ms. Shobha Kashyap, Panel Lawer.

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**CAV Judgment**

(Delivered on 18-02-2016)

1. Challenge in this appeal is to the judgment of conviction and order of sentence dated 7-7-1997 passed by 2nd Additional Sessions Judge, Bastar at Jagdalpur in Sessions Trial No. 281 of 1993 whereby and whereunder learned 2nd Additional Sessions Judge after holding the appellants guilty for commission of offence, convicted them under Section 324 read with Section 34 of the IPC and sentenced them to undergo SI for one year and to pay fine of Rs.200/- each, in default of payment of fine amount to undergo further SI for three months.
2. As per case of prosecution, on 19-1-1992 at about 4.00 am the complainant Tatee lodged the report in Police Station against the present accused/appellants and other co-accused stating that when he

was sitting in his house, appellant No.1 Goindia came to his house along with appellant No.2 Hemnath and other co-accused for performing "Cherka" dance and after completion of the dance appellant No.1 Goindia demanded paddy from complainant but the complainant instead of paddy gave rice to them. Being annoyed appellant No.1 threw the rice given by the complainant and abused him. After some time, when the complainant went some, present appellants assaulted the complainant by Tangia and Lathis near the house of Gochu. Thereafter complainant went to Police Station and lodged report against the present appellants on the basis of which FIR (Ex. P/1) was lodged against the present appellants.

3. After completion of investigation, Police filed the charge-sheet before the Court of Judicial Magistrate First Class, Jagdalpur, who in turn committed the case to the court of Sessions Judge, Jagdalpur. Learned Sessions Judge received the case on transfer for trial.
4. In order to prove the guilt of the appellant, prosecution examined as many as 9 witnesses. Accused/appellants were examined under Section 313 of the Code of Criminal Procedure, where they denied the circumstances appearing against them and innocence and false implication in crime in question is claimed.
5. After affording opportunity of hearing to the parties, learned Sessions Judge convicted and sentenced the appellant as aforementioned. During trial the appellants filed a compromise petition before the trial Court but the same was rejected by the trial Court.

6. Learned counsel appearing for the appellants, while not disputing the conviction of the appellants under Section 324/34 of the IPC submits that the incident took place way back in the year 1992 i.e., 24 years prior from the date of incident, both the parties tried and presented the compromise petition before the trial Court but the trial Court has not given permission for compromise and rejected the same. Learned counsel for the appellants prayed that considering the facts and circumstances, while maintaining the conviction and fine amount, the appellants may kindly be given the advantage and reduce the sentence of imprisonment to the period already undergone by them.
7. *Per contra*, learned learned Panel Lawyer on behalf of the State opposes the appeal.
8. I have heard learned counsel for the parties, perused the judgment impugned and record of the trial court.
9. Considering the entire evidence adduced on behalf of the prosecution, the evidence is sufficient and acceptable. The prosecution duly proved the guilt of both the appellants, I am of the considered opinion that the trial Court has rightly convicted the appellants under Section 324/34 of the IPC and I hereby affirm the judgement of conviction against the appellants
10. So far as the quantum of sentence is concerned keeping in view the nature of offence and the nature of weapon used in commission of offence and further taking into consideration the fact that the incident

took place 24 years prior to the date of incident and parties had presented the compromise petition before the trial Court which rejected the same, I am of the considered 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 already undergone by them while maintaining conviction and the fine amount.

11. Consequently, the appeal is partly allowed . Conviction of the appellants awarded by the trial Court under Section 324/34 of the IPC is hereby affirmed, but their sentence awarded by the trial Court is modified and instead of RI for one year, they are sentenced to undergo imprisonment for the period already undergone by them. However, as regards sentence of fine, the same is intact.
12. It is stated that the appellants are on bail. Their bail bonds shall continue for a period of six months in view of Section 437(A) of Cr.P.C.

Sd/-

**(I.S. Uboweja)**  
**JUDGE**

Raju\_