

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 131 of 2003**

1. Raj Kumar @ Raju aged about 35 years S/o Shri Bahauran.
2. Sahoran, aged about 49 years s/o Shri Aghori.
3. Mangalu, aged about 48 years S/o Shri Aghori.
4. Lachi Ram, aged about 23 years, S/o Shri Sahoran.

All Caste Surayavanshi Occupation Agriculturist R/o village Darripara,
Naila, PS Tahsil and District Janjgir-Champa.

---- Applicants

Versus

State of Chhattisgarh, Through District Magistrate, District Janjgir-Champa.

---- Non-Applicant

For Applicants	: Shri F.S.Khare, Advocate.
For Non-Applicant/State	: Shri S.M.Ali, Panel Lawyer.

Hon'ble Shri Deepak Gupta, Chief Justice**Order on Board****19/08/2016**

1. This revision is directed against judgment dated 15.03.2003 passed by the 4th Additional Sessions Judge (F.T.C.) Janjgir in Criminal Appeal No. 185 of 1998 whereby he dismissed the appeal filed by the present Applicants and upheld the judgment dated 05.08.1998 passed in Criminal Case No. 268 of 1994 by the Judicial Magistrate First Class, Janjgir, convicting and sentencing the Accused/ Applicants as under:

CONVICTION	SENTENCE
U/s. 324 IPC to Applicant No. 1	R.I. for 2 years and fine of Rs. 300/-. In default, further SI for 1 month.
U/s. 326 IPC to Applicant No. 1	R.I. for 2 years and fine of Rs. 300/-. In default, further SI for 1 month.
U/s. 326/34 IPC to Applicant No. 2 to 4	R.I. for 2 years and fine of Rs. 300/-. In default, further SI for 1 month.

U/s. 326/34 IPC to Applicant No. 2 to 4	R.I. for 2 years and fine of Rs. 300/-. In default, further SI for 1 month.
U/s. 325/34 IPC to all the Applicants	R.I. for 1 year and fine of Rs. 100/-. In default, further SI for one month to each Applicant.
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2. Briefly stated, the prosecution story is that the complainant party (injured) and the Accused/Applicant belong to the same village. It is alleged that some wood was stolen from the possession of the complainant party. They were raising this issue by use of abusive and offensive language. The members of the Applicants/Accused party asked the members of the complainant party why they were using such abusing and offensive language. Due to this, an altercation took place between both the parties. Accused-Raj Kumar @ Raju went into his house and brought a sword and caused injuries to the members of the complainant party. It is not disputed that the complainant party also comprised of five persons. The Accused/Applicant are four persons, therefore, it is apparent that the fight took place between two groups. Both the groups were almost of equal strength but it is proved that the Applicant No. 1-Raj Kumar @ Raju went into his house and got a sword. The medical evidence shows that though the sword and *lathi* were used, but the injuries were simple in nature except for one injury i.e. on the wrist of complainant-Shantilal. This injury was caused by Applicant No. 1.

3. I have heard learned counsel for the Applicants as well as for the State.

4. This Court is sitting in revisional jurisdiction and while exercising revisional jurisdiction, this Court cannot interfere with the finding of fact unless there is jurisdictional error or the finding is so perverse that no reasonable man would come to that conclusion. No such error has been pointed out by the Applicants.

From the statements of the prosecution witnesses i.e. the injured themselves, it is apparent that the Applicant No. 1 went inside his house and got a sword. It is also proved on record that the Applicant No. 2 to 4 also used Lathis to cause injuries to the members of the complainant-party. It is not proved on record that the members of the Accused-party have received any injuries.

5. In view of the above discussion, it is apparent that the Accused persons were the aggressors and they have rightly been convicted for the offences as aforesaid. However, while coming to the question of sentence, this Court finds that the occurrence is of the year 1994 and more than 22 years have expired and by this time, the Applicant No. 1 would be more than 50 years of age, Applicants No. 2 and 3 would be 65 and 70 years of age respectively and Applicant No. 4 would be aged about 40 years. They have already remained in jail for sometime till bail was granted to them and it would be highly unjust to send them behind the bars at this belated stage. Therefore, though the conviction is upheld, however, the sentence is modified as follows:

6. The sentence awarded to the Applicant No. 1 under Section 324 IPC is modified to the period of sentence already undergone with fine of Rs. 2,500/- and for offence under Section 326 IPC, the sentence is modified to the period of sentence already undergone with fine of Rs. 2,500/- and for the offences under Section 324/34, 324/34 and Section 325/34 IPC is modified to the period of sentence already undergone by him with fine of Rs. 2,000/-.

7. The sentence awarded to Applicants No. 2 to 4 under Section 326/34 IPC is modified to the period of sentence already undergone by them with fine of Rs. 1,000/- each, and for the offences under Sections 326/34, 325/34, 324/34 and 324/34 IPC, the sentence is modified to the period of sentence already undergone by them, with fine of Rs. 1,000/- each.

8. The fine amount, if recovered, shall be paid to the members of the complainant-party. However, in default of payment of fine, the Applicants shall have to undergo simple imprisonment for six months.

9. In view of the above, the revision is partly allowed in the aforesaid terms.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Amit