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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.99 of 2008

Ram Swarup Yadav, S/o Shri Jageshwar Yadav, aged about 40 years,
R/o Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh

--- Petitioner

versus

1. State of Chhattisgarh, through Police Station Sanna, District Jashpur, Chhattisgarh
2. Rampyare Yadav, S/o Halkan Yadav, aged about 58 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh
3. Rampreet Yadav, S/o Shri Ram Vilas Yadav, aged about 56 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh
4. Gautam Yadav, S/o Shri Puran Yadav, aged about 37 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh
5. Ganga Prasad Yadav, S/o Shri Puran Yadav, aged about 54 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh
6. Indranath Yadav, S/o Shri Rampyare Yadav, aged about 31 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh
7. Arjun Yadav, S/o Shri Puran Yadav, aged about 29 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh
8. Mandeep Yadav, S/o Ram Charan Yadav, aged about 31 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh
9. Vinod Kumar Yadav, S/o Shri Rampyare Yadav, aged about 24 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh
10. Tejraj Yadav, S/o Rameshwar Yadav, aged about 25 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh
11. Bhanu Pratap Yadav, S/o Shri Ram Preet Yadav, aged about 30 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh
12. Satyanarayan Yadav, S/o Shri Nirmal Yadav, aged about 23 years, Occupation Agriculturist, Village Khairapath, P.S. Sanna, District Jashpur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri A.N. Pandey, Advocate
For State/Respondent No.1	:	Ms. Smita Ghai, Panel Lawyer

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per Navin Sinha, Chief Justice

7/1/2016

1. Heard Learned Counsel for the Petitioner and the State.
2. This revision application arises from order dated 17.10.2007 in Sessions Trial No.26 of 2007 passed by the Additional Sessions Judge, Jashpur. The Trial Judge in an accusation under Section 307/149 and other provisions of the Indian Penal Code after examining the evidence on record including the medical reports of the injured ordered conviction under Section 326 IPC against Respondents No. 6 and 9. Conviction was ordered under Section 325 IPC against Respondents No.6 and 7 while conviction under Section 323 IPC was ordered against Respondents No.8, 10, 11 and 12.
3. Learned Counsel for the Petitioner assailing the conviction submitted that the assault was made with the intention to kill reflected from the fact the accused persons lay in wait and assaulted with knife, tangi, rods and lathis when the Petitioner along with another person from the village crossed the area in question. In the nature of the injuries conviction less than under Section 307 IPC was not justified. It was lastly submitted that the compensation awarded under Section 357 Cr.P.C. of Rs.3,000/- to the Petitioner and Rs.1,000/- to the person accompanying the Petitioner was grossly inadequate. Due weightage has not been given to the evidence of the informant and the other person both of whom were injured witnesses. The credibility of an injured witness is always high must be kept in mind while sentencing. No other grounds have been urged.
4. We have considered the submissions and gone through the judgment in question. Previous enmity existed between the parties. The Trial Judge

on consideration of the evidence has arrived at the conclusion that there is no material to hold that the Respondents lay in wait for assaulting aware that the two injured would be coming by much less with any intention to kill. The allegation of an unlawful assembly with a common object has therefore been disbelieved. According to the Trial Judge the incident occurred on the spur of the moment when the parties happened to meet.

5. The Petitioner and the other injured person were medically examined by PW-9, Dr. Shri Anuranjan Kujur. The medical report of the former was marked Exhibit P-36 and that of the later is Exhibit P-37. The injuries on the Petitioner were on the middle and lower parts of the right leg and on the lower part of the left leg. There were two injuries on the back of the head 3 inches x 1 inch x 0.25 cms. and 4 inches x 1½ inches x 0.25 cms. There was a wound on the right temporal region 3 inches x ½ inch x 0.25 cms. caused by hard and blunt object serious in nature. There was a dislocation in the right shoulder joint with contusions. The injury on the right hypocondrium region was simple in nature. The x-ray did not reveal presence of any broken bones. The doctor had not opined that the injuries were dangerous to life. Likewise, PW-9 Dr. Kujur with regard to the injuries on the person accompanying the Petitioner stated they were on lower part of both legs not dangerous to life.

6. We find no reason to interfere with the conviction in view of the nature of the injuries as none of them were dangerous to life invoking Section 307 IPC. If the Respondents were eleven in number and were armed as also had the intention to kill nothing prevented them from making repeated assaults including on sensitive parts of the human body to ensure that death would follow or the knowledge that it may follow. The injury on the head of the Petitioner alone warranted conviction under Section 326 IPC to the satisfaction of the Trial Judge and we find no reason to interfere with the

same. We are further not satisfied that in the nature of the occurrence and the existing enmity between the parties, it is a fit case for enhancement of compensation also.

7. The revision application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE