

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 431 of 2006**

1. Dhaniram Sahu, aged about 32 years, son of Shri Bisahu, Caste Satnami, occupation Agriculturist, resident of Village Bandha, PS Pandariya, Distt. Kabeerdham (CG).
2. Anjor Bai, W/o Shri Bisahu, aged about 60 years, Caste-Satnami, occupation Agriculturist, resident of Village Bandha, PS Pandariya, Distt. Kabeerdham (CG).

---- Applicants**Versus**

State of Chhattisgarh, through the District Magistrate, Kabeerdham (Kawardha) (CG).

---- Respondent

For Applicants	:	Shri Rakesh Pandey and Shri Dashrath Prajapati, Advocates.
For Respondent/State	:	Shri U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**ORDER ON BOARD****11/05/2016.**

1. The Applicant No.1 stands convicted under Sections 341, 294 and 323 IPC and sentenced to pay fine of Rs.200/- and Rs.400/- respectively for the offence under Sections 341 & 294 IPC with default stipulation. He has been further sentenced to undergo Rigorous Imprisonment for one month with fine of Rs. 1000/- with default stipulation for the offence under Section 323 IPC by judgment dated 11.07.2006 passed by the Sessions Judge, Kabeerdham, in Criminal Appeal No.13 of 2006. Similarly, the Applicant No.2 has been convicted for the offence only under Section 323 IPC and sentenced to

undergo Rigorous Imprisonment for one month with fine of Rs.1000/- with default stipulation.

2. The case of the prosecution is that on 24.01.2002 at around 7am when the complainant was taking his Oxes and buffaloes through the fields of the present applicants, the present applicants is stated to have objected and in the course some altercation took place between the complainant and the applicants. Later, it got converted into a free fight between the parties. The police registered Crime No.15/2002 against the applicants. Counter case was also lodged by the present applicants against the complainant as the applicants were also injured. Criminal Case No.382/2005 was initiated before the Judicial Magistrate First Class, Kabeerdham against the present applicants. Likewise, Criminal Case No.729/2005 was also initiated against the complainant party i.e. State Vs. Chhotu and Another before the Judicial Magistrate First Class, Kabeerdham.

3. After conclusion of trial, the trial court vide judgment dated 24.05.2006 convicted both the applicants as stated in the preceding paragraph. The accused in the counter case were also convicted. Either parties preferred Criminal Appeal No.13/2006 which was in respect of the applicants and so far as the Appeal by the either side, it was registered as Criminal Appeal No.14/2006 before the Sessions Court, Kabeerdham.

4. The appellate court finally vide impugned judgment rejected the appeal of the applicants maintaining the conviction leading to filing of instant revision petition, while the appeal of the other side was pending.

5. Learned counsel appearing for the applicants submits that a bare perusal of the entire prosecution case itself would reveal that it was the

complainant who was the aggressor as he was passing through the fields of the applicants along with his buffaloes and Oxes which was objected by the applicants. It is also submitted that when the applicants objected to the complainant from taking his cattles through their fields some altercation and fight took place. There was no pre-meditation on the part of the applicants as they were already in their fields when the complainant tried to trespass with his cattles through the fields of the applicants.

6. It is also submitted that nature of injuries sustained by the complainant as is reflected from the MLC report would show that the injuries sustained were too simple in nature and the entire dispute arose because of a very trivial issue of taking the Cattles through the fields of the applicants. The applicants have already remained in jail for a period of ten days and as such the period already undergone by the applicants are sufficient sentence. Therefore, the conviction of the applicants, in alternative, be modified to the period already undergone.

6. Per contra, learned Counsel appearing for the State opposing the revision submits that the offence said to have been committed by the applicants has been established and proved beyond all reasonable doubts by the trial court. The said findings of trial court is affirmed by the appellate court and as such there is no scope of interference with the judgment impugned. Even otherwise, the sentence awarded by the court below is too minimum. For all these reasons, the revision deserves to be dismissed.

7. Having considered the rival contentions and having perused the records, it is clear that the issue which led to fight was too trivial in nature. The dispute arose between the parties with regard to taking of complainant's

cattles through the fields of the applicants as a result of which there was free fight between them. Both the parties sustained simple injuries. It is also an admitted facts from the prosecution case itself that the applicants were already in their fields when the complainant tried to trespass. The incident is of the year, 2002 i.e. 14 years old. Last but not the least, from the perusal of records it is evidently clear that the issue involved is too trivial and the injuries sustained by the complainant is also simple in nature. Moreover, the applicant No.2 today is aged about more than 70 years and not fruitful purpose would be served if they are now asked to serve the remaining sentence.

8. Thus, for the foregoing reasons, it can be safely concluded that the conviction of the applicants for offence under Sections 341,294 and 323 IPC is justified and does not call for any interference. But, in the given factual background of the case and the injuries inflicted by the applicants on the complainant, the sentence awarded for the offence under Section 323 IPC stands modified to the extent that the sentence part is reduced to the period already undergone.

9. Resultantly, the revision is allowed in part. The conviction of the applicants for the offence under Sections 341,294 and 323 IPC stands confirmed and maintained. However, the sentence for the offence under Section 323 IPC stands modified for the period already undergone. Rest of the sentence remains intact.

Sd/-
(P. Sam Koshy)
JUDGE

