

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.378 of 2003**

1. Krishna @ Nankun Yadav S/o Sonau Ram Yadav aged 22 years R/o Village Kauwatal P.S. Sarangarh District Raigarh At present Chhoteutarmuda near Panchayat Office PS Chakradhar Nagar District Raigarh Chhattisgarh

2. Shishupal Singh Thakur S/o Dashrath Singh Thakur aged 28 years R/o village Chhoteutarmuda PS Chakradhar Raigarh District Raigarh Chhattisgarh

---- Applicants

Versus

State of Chhattisgarh

---- Respondent

For Applicants	:	Smt. Savita Tiwari, Advocate.
For State/Respondent	:	Smt. Smita Ghai, Panel Lawyer.

Hon'ble Shri Deepak Gupta, Chief Justice**Order on Board****22/07/2016**

1. This revision petition is directed against the judgment dated 26.7.2003 delivered by the Second Additional Sessions Judge, Raigarh, Chhattisgarh in Criminal Appeal No.130 of 2000 whereby he dismissed the appeal of the Applicants and confirmed the judgment dated 2.5.2000 passed by the Chief Judicial Magistrate, Raigarh in Criminal Case No.1092 of 1998 and convicted them for having committed an offence punishable under Sections 452 and 327 read with Section 34 of IPC and sentenced each of them to undergo rigorous imprisonment for one year for offence under Section 452 of IPC, rigorous imprisonment for two years for offence under Section 327/34 of IPC and to pay fine of Rs.250/- for each of the offence, in default of payment of fine amount, they would further have to undergo rigorous imprisonment for three months.

2. The prosecution story briefly stated is that on 25.6.1998 at about 2.15 PM, complainant Balkishan was sitting in the office of his brother then the Applicants came inside the office and demanded Rs.1000/-. When the complainant refused to pay Rs.1000/-, the Applicants asked for Rs.100/- and also threatened him that if he did not pay the money, they would beat him. Thereafter, it is alleged that both the accused assaulted the complainant first with rod and then fists and kicks blows and it is also alleged that one of the accused took the sword from outside and gave a blow of sword to the complainant.

3. Normally, this Court does not interfere with the finding of fact delivered by two Courts below. However, I find that the Lower Appellate Court had just dittoed the order of the trial Court without considering the arguments or the relevant facts. This Court is duty bound to ensure that the justice is done to all parties.

4. The statement made by the complainant is not supported by any other witness. His submission is that he was sitting in the office of his brother when the demand was made. There is no explanation why the accused suddenly came inside the factory room and demanded this money. A suggestion has been put to this witness that in fact he was illegally carrying out some tobacco work in the factory room without taking permission of the environmental authority. It was also alleged that some payment was not paid for the land which the complainant and his brother had purchased from the father of the accused.

5. The statement of the complainant does not inspire confidence because if his narration is to be believed, he was beaten with a rod and given kicks and fist blows and also a blow with a sword. Then he would have a lot of injuries on his person. But when we go through the evidence of PW1, Dr. R.K. Agrawal, the complainant only had three small bruises and there was no lacerated wound, no cut injury or any injury which could be attributed by rod and sword.

6. Therefore, I am not inclined to believe the story of the complainant. His story is not supported by any other witness and is not corroborated by the evidence of any other witness.

7. In view of the above, this criminal revision is allowed and the accused are acquitted of the charges.

Sd/-
(Deepak Gupta)
Chief Justice

Anu