

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 545 of 2003**

Rameshwar Kaushik aged about 34 years son of Hiralal resident of village Arjuni
Police Station Akaltara District Janjgir-Champa (Chhattisgarh)

---- Petitioner**Versus**

State of Chhattisgarh through District Magistrate Janjgir-Champa (Chhattisgarh)

---- Respondent

For Petitioner	:	Shri V.K. Pandey, Advocate.
For Respondent	:	Smt. Smita Ghai, Panel Lawyer.

Hon'ble Shri Deepak Gupta, Chief Justice**Order on Board****17/06/2016**

1. This criminal revision is directed against the judgment dated 7.11.2003 delivered by Learned Additional Sessions Judge, Janjgir who upheld the judgment of conviction passed by the Learned Judicial Magistrate First Class, Janjgir dated 17.2.2003, whereby the Petitioner has been convicted for having committed an offence punishable under Section 325 IPC and sentenced him to undergo rigorous imprisonment for one year and to pay fine of Rs.300/-, in the event of failure to pay which he was required to undergo simple imprisonment for three months.
2. The prosecution case briefly stated is that on 22.7.2000 at about 10.30 pm. complainant Ram Prasad was irrigating his agricultural land. At that time, the Petitioner/ accused went to the place of occurrence and abused the complainant. Thereafter, he hit the complainant with a wooden stick causing injury on the hand and as result of which, complainant suffered a fracture on his hand. Complainant - Ram Prasad filed a complaint with the police and on the basis of which, First Information Report was registered. After investigation, charge-sheet was filed against the accused and after the trial, the accused was convicted and sentenced as aforesaid. His appeal has also been rejected by the Learned Additional Sessions Judge. Hence, this revision petition.
3. I have heard Shri V.K. Pandey, Learned Counsel for the Petitioner.
4. Both the Courts below have come to a finding of fact based on the

statement of the complainant that the Petitioner/accused had hit the complainant with a wooden stick. There is also medical evidence on record to show that the complainant suffered a fracture in his hand due to the injury caused by the accused. This finding of fact cannot be interfered with in the revision proceedings as there is no error of jurisdiction and therefore, on merits I am not inclined to interfere.

5. Lastly, Shri V.K. Pandey, Learned Counsel for the Petitioner urged that the incident occurred on 22.7.2000, more than 16 years back and at this stage, to send the Petitioner behind the bars would not only amount to punishing him but also amount to punishing his family members. He has already remained in jail for about 10 days and therefore, keeping in view of the fact that the Petitioner has already spent about 10 days and 16 years have elapsed, it would not be proper for this Court to send back the Petitioner to jail after such a long time.

6. I therefore feel that this is a fit case where substantive sentence can be modified and the fine amount may be enhanced so that justice is done to both the sides.

7. Accordingly, the revision petition is partly allowed. The substantive sentence of the Petitioner is reduced to the period of incarceration already undergone by him. However, the fine is enhanced from Rs.300/- to Rs.10,000/-. The fine amount when deposited, the same shall be paid to the complainant. This amount of fine be deposited before the Learned Trial Court on or before 30.9.2016. A copy of this order be sent to the Trial Court. If the fine amount is not deposited by 30.9.2016, then the Petitioner shall have to undergo rigorous imprisonment for one year.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE