

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.620 of 2003

Pancham, son of Kunwar Singh, aged about 35 years, R/o Bahigaon, Thana Keshkal, District Bastar, Chhattisgarh

---- Petitioner

versus

State of Chhattisgarh, through Collector, Bastar, District Jagdalpur, Chhattisgarh

---- Respondent

For Petitioner	:	Smt. Renu Kochar, Advocate
For Respondent/State	:	Shri Majid Ali, Panel Lawyer

Hon'ble Shri Deepak Gupta, Chief Justice

Order on Board

22.7.2016

1. By means of this criminal revision, the Petitioner has challenged judgment dated 10.12.2003 passed in Criminal Appeal No.44 of 2003 by the Sessions Judge, Bastar at Jagdalpur affirming judgment dated 26.5.2003 passed in Criminal Case No.727 of 2000 by the Judicial Magistrate First Class, Kondagaon convicting the Petitioner under Section 326 of the Indian Penal Code and sentencing him to undergo rigorous imprisonment for six months and to pay fine of Rs.3,000/-, in default of payment of fine to undergo further rigorous imprisonment for three months.

2. The Complainant and the accused/Petitioner are real brothers and due to a property dispute between them, the occurrence in question took place. The accused/Petitioner assaulted his elder brother/Complainant with an Axe and caused grievous injuries on his person. The conviction of the accused/Petitioner is based on the statement of his real elder brother, who is the victim. This statement is duly supported by the eyewitnesses and there is sufficient corroborative evidence. I find that there is no error

of jurisdiction in the judgment of the Court below and the matter cannot be interfered with. Even though on merits, I do not find any substance in the instant revision, I feel that the accused/Petitioner should not be sent behind bars after passage of so many years. The occurrence took place in the year 2000, i.e., about 16 years ago.

3. Learned Counsel appearing for the Petitioner urged that the Petitioner and the Complainant are real brothers and at present they are having normal and cordial relationship with each other.

4. Keeping all the above facts in mind, I find that the interest of justice would be served if, while upholding the conviction of the Petitioner, the substantive sentence imposed upon him is reduced to the period of incarceration already undergone by him, which is 16 days. However, the sentence of imposition of fine deserves to be enhanced from Rs.3,000/- to Rs.8,000/-.

5. Accordingly, the revision is allowed in part. The conviction of the Petitioner under Section 326 IPC is upheld, but the substantive sentence awarded to him thereunder is reduced to the period already undergone by him. However, the fine imposed upon him is enhanced by Rs.5,000/-. It is submitted that the Petitioner has already deposited the amount of fine of Rs.3,000/- imposed upon him by the Court below. He shall now deposit the enhanced amount of fine of Rs.5,000/- in the Trial Court within a period of three months from the date of receipt of a copy of this order. On deposit of this amount of Rs.5,000/-, the Trial Court shall pay the same to the victim/Complainant within a month from the date of deposit of the amount. In case of non-deposit of the enhanced amount of fine of Rs.5,000/- in the Trial Court by the Petitioner within the stipulated period, he shall be liable to undergo simple imprisonment for three months.

6. It is stated that the Petitioner is on bail. His bail bonds are discharged subject to his compliance of the conditions incorporated in Section 437A of the Code of Criminal Procedure.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE