

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 245 of 2004

Case reserved on 23.11.2016

- Anil @ Bannoo, s/o late Shri SP Verma, aged 35 years, occupation Agriculture, resident of village ward No.2, Bemetara, Tahsil and Police Station- Bemetara, distt Durg (Chhattisgarh)

---- Applicant

Versus

- State of Chhattisgarh, through district Magistrate, Durg (CG)

---- Respondent

For Applicant	:	Shri Arvind Sinha, Advocate
For Respondent/State	:	Shri SK Mishra, PL

Hon'ble Shri Justice Anil Kumar Shukla

CAV Order delivered on .11.2016

1) This revision is directed against the judgment dated 17.03.2004 by which learned Additional Sessions Judge, Bemetara , district Durg in Criminal Appeal No.49 of 2004 while maintaining the fine amount of Rs.1,000/- on each count, quashed the sentence of RI for 3 months for the offence punishable under Section 323 (double count) IPC. Fine amount has already been paid.

2) Judgment is challenged on the ground that without any clinching evidence, the Court below has convicted and sentenced the applicant as aforementioned.

3) Prosecution story in brief is that on 04.10.2001 present applicant abused Ramnarayan (PW-2), gave threat to his life and

beat him with lathi, hands and fists, by which he received injuries. On seeing this, Santosh Agrawal and Thakur Ram came there and tried to intervene them, the applicant also assaulted them. Charge-sheet had been filed in the Police Station Bemetara under Sections 294, 506 (ii) and 323 IPC.

4) I have heard learned counsel for the parties, perused the judgment impugned, copies of statements of the witnesses and other documents filed on behalf of the applicant.

5) Learned counsel for the applicant argued that the applicant has been falsely implicated in the case and he has been acquitted of the charges under Sections 294 and 506(ii) IPC by the trial Court. The trial Court while convicting and sentencing the applicant under Section 323 of the IPC in two counts, has not considered the relevant aspects of the matter, thereby committed an error in the impugned judgment. The independent witnesses have not been examined by the prosecution and there are material contradictions in the evidence of the prosecution witnesses.

6) On the other hand, learned State counsel opposes the revision and submits that the appellate Court has awarded minimum sentence and the prosecution case has been proved beyond all reasonable doubts.

7) In exercise of revisional jurisdiction, this Court may examine the concurrent findings of the Courts below for the purpose of

satisfying itself as to the correctness, legality or propriety of any finding of the impugned judgment.

8) As per evidence of Ramnarayan (PW-2) and Thakur Ram (PW-3), present applicant beat them by hands and fists & with a lathi by which they received injuries on their body. Both of them were treated by Dr NK Tiwari (PW-7) and his medical report is Ex.P/8 & P/9 respectively. The above statements of Ramnarayan (PW-2) and Thakur Ram (PW-3) have been corroborated by other prosecution witnesses, namely, Dr Tiwari, Santosh Agrawal (PW-4) and Vimal Agrawal (PW-5).

9) After appreciating the evidence available on record, learned Court below has rightly convicted and sentenced the applicant vide the judgment impugned.

10) In view of the above, learned Court below while imposing the minimum sentence of fine of Rs. 1,000/- on each count for the offence punishable under Section 323 (two counts) IPC, has not committed any illegality or impropriety warranting interference in exercise of revisional jurisdiction. Fine amount has already been deposited by the applicant in the trial Court itself.

11) Consequently, I do not find any scope for interference in the judgment impugned. The revision is liable to be and is hereby dismissed.

Sd/-
(Anil Kumar Shukla)
JUDGE