

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 363 of 2004

Judgment reserved on : 02.12.2016

Judgment delivered on : 20.12.2016

- Ramnath, s/o Kolhuras Sahu, aged about 38 years, Occupation - Agriculture, Residence of Village - Koylari, PS Pipariya, District Kabirdham (CG) **---- Applicant (In jail)**

Versus

- State of Chhattisgarh through District Magistrate, Kawardha, distt Kabirdham (CG)

---- Respondent

For Applicant : Shri Ajit Singh, Advocate
For Respondent/State : Shri Sanjeev Pandey, GA

Hon'ble Shri Justice Anil Kumar Shukla

CAV Order

1) This revision is directed against the judgment dated 12.07.2004 by which learned Additional Sessions Judge (FTC), Kawardha in Criminal Appeal No.86 of 2003 while confirming the judgment of conviction, altered the sentence of the applicant awarded by the Chief Judicial Magistrate, Kawardha in Criminal Case No. 161 of 1999 on 28.05.2003 for committing the offence punishable under Section 325 of the IPC and sentenced him to undergo RI for six months and to pay fine of Rs.5,000/-, in default of payment of fine, to further undergo RI for one year.

2) Prosecution story, in brief, is that there was a dispute between the present applicant and complainant- Ahilyabai (PW-2) regarding old house wall. On 24.12.1998 at 10 am when complainant- Ahilyabai was returning to her house from agriculture

fields with cutting grass on her head, the applicant stopped and assaulted her with a lathi by which she sustained injuries and also gave threat to her life. Kejuram (PW-4) and Rewaram (PW-3) are eyewitnesses to the incident. Dr KK Sharma (PW-12) examined the complainant vide Ex.P/5. He found injuries and fractures on her body vide Ex.P/7 to P/10. The complainant was in the district hospital, Rajnandgaon from 28th to 30th December, 1998 and was discharged thereafter. On 29.01.1999 weapon of offence lathi was seized by the Investigating Officer vide Ex.P/2, spot-map was prepared vide Ex.P/1 and after investigation, the applicant was arrested.

3) I have heard learned counsel for the parties, perused the judgment impugned, copies of statements of the witnesses and other documents relevant to the present case.

4) Learned counsel for the applicant did not take any specific plea in the case. However, he stated that the applicant was falsely implicated in the case. At the outset, he submitted that the applicant is not challenging his conviction. He further submitted that the applicant has been facing trial since the date of the incident, whereby nearly 13 years have elapsed. He served jail sentence for approximately fifteen days; had already paid the fine amount imposed upon him; and had been granted bail by this Court on 23.07.2004. Therefore, he prays to reduce the sentence of the applicant imposed upon him to the period already undergone. In support of his argument, he placed reliance in the matters of

Dwarka Soni and others Vs The State of MP {2009 (5) MPHT 411} and **Chand Patel and others Vs State of MP** {2005 (4) MPHT 125}, also in the recent matter of **Mahesh & others Vs State of Chhattisgarh** (CRR-363 of 2006).

5) On the other hand, learned State counsel opposed the revision and submitted that the appellate Court has rightly confirmed the judgment of the trial Court and supported the impugned judgment.

6) 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.

7) It is not disputed that complainant- Ahilyabai had been suffered injuries by the applicant and age of the applicant at the time of incident was 38 years. He faced trial, appeal and the present revision for the last 13 years and remained in custody for approximately fifteen days.

8) Considering all the facts and circumstances of the case and further considering the case laws cited above, in my view, it would be rather harsh to send the applicant to jail again after 13 years (approx) of the incident. Therefore, considering the age of the applicant and custody period as well as the period of trial, appeal and revision, ends of justice would be met if the jail sentence is reduced to the period already undergone by the applicant with additional fine of Rs.5,000/-.

9) Accordingly, on the basis of the aforesaid discussion, the revision filed by the applicant is hereby partly allowed. The conviction of the applicant under Section 325 IPC is hereby maintained. However, the sentence of the applicant is reduced to the period already undergone by him. Nevertheless, the applicant is required to pay additional fine of Rs.5,000/- (Rupees five thousand only) within two months from the date of receipt of copy of this order. In default of payment of fine amount, the applicant to undergo RI for a month.

10) The applicant is on bail. His bail bonds are not discharged at this stage and shall remain operative for a period of six months in view of the provisions contained under Section 437-A of the Cr.P.C.

Sd/-
(Anil Kumar Shukla)
JUDGE