

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 363 of 2006

Judgment reserved on : 16.11.2016

Judgment delivered on : 30.11.2016

1. Mahesh, s/o Kejuram Sahu, aged about 45 years
 2. Bhuwan Sahu, s/o Mahesh Sahu, aged about 19 years
 3. Rupu Sahu, S/o Ganesh Sahu, aged about 24 years
 4. Birbal, S/o Ganesh Sahu, aged about 19 years
- All r/o Dhusera, Dewarbhata, Thana-Abanpur, district Raipur (CG)

---- Applicants (In jail)

Versus

- State of Chhattisgarh through District Magistrate, district Raipur (CG)

---- Respondent

For Applicants : Shri Hemant Kesharwani, Advocate
For Respondent/State : Shri Neeraj Sharma, Dy. GA

Hon'ble Shri Justice Anil Kumar Shukla

CAV Judgment

1) This revision is directed against the judgment dated 13.06.2006 by which learned Sessions Judge, Raipur in Criminal Appeal No.78 of 2006 while confirming the judgment of conviction and order of sentence awarded by the Judicial Magistrate First Class, Raipur in Criminal Case No. 904 of 2005 on 03.04.2006, convicted applicant- 1 for committing the offence punishable under Section 325 of the IPC, sentenced him to undergo RI for one year and to pay fine of Rs.1,000/-, in default of payment of fine, to further undergo RI for three months; convicted the other applicants- 2, 3 and 4 for committing the offence punishable under Section

325/34 of the IPC, sentenced them to undergo RI for one year and to pay Rs.500/- each and in default of payment of fine, to further undergo one month RI. All the applicants have been convicted under Section 294 and to pay fine of Rs.500/- each, in default of payment of fine, to further undergo one month RI.

2) Prosecution story, in brief, is that on 28.10.2000 when complainant- Johatram was going out of his house to see off his friends, namely, Ramadhar and Kumar. At that time, the applicants, in a group abused and assaulted Johatram by clubs, as a result of which he sustained injuries on several parts of his body i.e., head, shoulder, at his back, left hand, paw, right shoulder and right hand. Johatram Sahu reported the matter at Police Station Abhanpur and after investigation, the applicants were 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 applicants did not take any specific plea in the case. However, he has stated that the applicants were falsely implicated in the case. At the outset, he submitted that the applicants are not challenging their conviction. He further submitted that the applicants have been facing trial since 30.10.2000 whereby 16 years have already elapsed. They served jail sentence for a month; have already paid the fine amount imposed upon them on each count; and have been granted bail by this Court on 11.07.2006. Therefore, he prays to reduce the sentence of the

applicants imposed upon them to the period already undergone. In support of his argument, he placed reliance in the matters of **Chand Patel and others Vs State of MP** {2005 (4) MPHT 125}, **Dwarka Soni and others Vs The State of Madhya Pradesh** {2009 (5) MPHT 411} and **State of MP Vs Bharat Lal** {2012 (2) MPHT 93}.

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) There is no dispute that victim Johatram has been suffered injuries by the applicants. Age of the applicants 1, 2, 3 and 4 at the time of incident was 45 years, 19 years, 24 years and 19 years respectively. They faced trial, appeal and the present revision for the last 16 years and remained in custody for a month.

7) 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 applicants to jail again after 16 years of the incident. Therefore, considering the age of the applicants 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 applicants.

8) On the basis of the aforesaid discussion, the revision filed by the applicants is hereby partly allowed. The conviction of the applicants under Sections 325 and 325/34 IPC is hereby maintained. However, the sentence of the applicants is reduced to

the period already undergone by them. Nevertheless, each of the applicants required to pay additional fine of Rs.1,000/- within two months from the date of receipt of copy of this order. In default of payment of fine amount, the applicants to undergo RI for a month.

9) The applicants are on bail. Their 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

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