

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL REVISION NO. 161 OF 2005**

1. Manrakhan, S/o Balaram, Caste Kevat, aged about 23 years.
 2. Vijay, S/o Balaram, Caste Kewat, aged about 19 years.
- Both R/o Andhiya Tola (Devarbhat), P.S. Balod, District Durg (C.G.)

... Applicants**Versus**

- State of Chhattisgarh, through P.S. Balod, District Durg (C.G.)

... Non-applicant

For Applicants	:	Mr. Santosh Bharat, Advocate.
For Non-applicant	:	Mr. Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/10/2016**

1. With the consent of the learned Counsel for the parties, the present revision is finally heard.
2. The present revision under Section 397/401 of IPC has been preferred by the Applicants against the judgment dated 5.4.2005 passed by the Additional Sessions Judge, Balod in Criminal Appeal No. 91 of 2004 affirming the judgment dated 31.1.2004 passed by Judicial Magistrate First Class, Balod in Criminal Case No. 1478 of 2002 whereby the Trial Court has held the Applicants guilty for the offence under Section 323 of IPC and upon conviction sentenced them to undergo R.I. for three months and to pay fine of Rs.100/- each with default sentence to undergo S.I. for 15 days in case if the fine amount is not paid.
3. The facts which are not in dispute are that on the date of incident i.e. 6.8.2001 a fight took place between the injured Panchuram (PW-1) and the Applicants. Panchuram suffered injuries. The accused Applicants were charged for the offence under Section 323 of IPC. After trial, the Applicants have been convicted by the Trial Court for the offence under Section 323 of IPC which was further affirmed by the Appellate Court. Hence this revision.

4. Learned Counsel for the Applicants at the outset submits that he does not intend to argue the case on merits and confines his submissions to the extent of the sentence imposed upon the Applicants. Accordingly to the Counsel for the Applicants, the conviction of the Applicants by the Trial Court is of 31.1.2004 and the judgment affirming the conviction and sentence passed by the Appellate Court is of 5.4.2005 and as such the present revision petition itself is coming up for hearing after 11 years and that in between the Applicants have already undergone about half of the sentence already awarded by the Trial Court and thus prays that the sentence part may be reduced to the period already undergone. According to the Counsel for the Applicants taking into consideration the nature of injury which has been sustained by the injured persons and the statement of PW-6 Dr. B.L. Ratre wherein it has been clearly reflected that the nature of injuries was simple in nature therefore the sentence imposed upon the Applicants may be modified to the extent of the period already undergone.

5. Learned Counsel for the State however opposes the petition on the ground that as the sentence imposed by the Trial Court is a very short sentence of three months it does not warrant any interference.

6. Having considered the total facts and circumstances of the case and also on perusal of the records what clearly reflects is that the date of incident in the present case is of August, 2001 and today almost more than 16 years have passed. Further, the conviction of the Applicants is also of 31.1.2004 which again is almost about 12½ years and from all these period the Applicants have been undergoing the trauma and agony of the uncertainty on account of pendency of the appeal at the first instance and the present revision at the second instance. Furthermore, a perusal of the records particularly Exhibit P-1, medical report of the injured also on verification of the same by the deposition of PW-6 Dr. B.L. Ratre it clearly

reflects that the injuries sustained by the injured, PW-1 Panchuram were simple in nature. Further, taking note of the reason which led to the fight between the two parties, was on account of the cattle entering into the fields, this Court is of the opinion that at this juncture it would be trite if maintaining the conviction of the Applicants the sentence part is reduced to the period already undergone as it is reflected from the records that the Applicants have already undergone about 1½ months of the sentence imposed.

7. Accordingly, the conviction of the Applicants for the offence punishable under Section 323 of IPC is confirmed. However, the substantive jail sentence imposed upon the Applicants for the offence under Section 323 of IPC is reduced to the period already undergone by them in jail and, in lieu thereof the fine amount imposed upon the Applicants is enhanced to the extent of Rs.1000/- each in place of Rs.100/- and in default of payment of enhanced fine amount, the Applicants shall have to undergo S.I. for 15 days. It is informed that the Applicants have been subsequently taken into custody on 22.9.2016. It is therefore directed that the Applicants be released from the jail, if not required in any other case. It is also directed that the enhanced fine amount should be positively deposited within a period of 15 days from today.

8. The revision stands disposed of to that extent.

Sd/-
(P. Sam Koshy)
Judge