

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 665 of 2015

Judgment reserved on : 16.11.2016

Judgment delivered on : 08.12.2016

1. Murari Prasad Singh, S/o Jugal Kishor Singh, aged 60 years, caste Rajput R/o Babupara, PS Kotwali, Ambikapur, District Surguja (CG)
2. Pappu @ Bhupendra Singh, S/o Murari Prasad Singh, aged 24 years, R/o Babupara PS Kotwali Ambikapur, district Surguja (CG)

---- Appellants (In jail)

Versus

- State of Chhattisgarh, Through Station House Officer PS Gandhinagar, Distt.Surguja (CG)

---- Respondent

For Appellants	:	Shri Shakti Raj Sinha, Advocate
For Respondent/State	:	Shri Sanjeev Pandey, GA
For the Objector	:	Shri AN Bhakta, Advocate

Hon'ble Shri Justice Anil Kumar Shukla

CAV Judgment

1) This appeal is directed against the judgment of conviction and order of sentence dated 27.05.2015 passed by the First Additional Sessions Judge, Surguja, Ambikapur (CG) in Sessions Trial No. 505 of 2011, whereby learned ASJ after holding the appellants guilty for commission of offences under Section 341/34 of the IPC, sentenced each of them to pay fine of Rs.500/-, in default of payment of fine Simple Imprisonment for a month; under Section 186/34 IPC, sentenced each of them to pay fine of Rs.500/-, in default of payment of fine, SI for a month; under

Section 353/34 IPC, sentenced each of them to undergo RI for one year and to pay fine of Rs.500/-, in default of payment of fine, SI for a month; under Section 307/34 IPC, sentenced each of them to undergo RI for 7 years and to pay fine of Rs.500/- in default of payment of fine, to further undergo SI for a month.

2) Conviction is impugned on the ground that without there being an iota of evidence, the trial Court has convicted & sentenced the appellants as aforementioned and thereby committed illegality.

3) Case of the prosecution, in brief is that on 24.08.2011 the victim/complainant namely, Alok Kumar Singh was going from Divisional Office Ambikapur to Sub-divisional Office Gandhinagar on a motorcycle for some official work. The appellants herein came from behind, stopped and obstructed him from doing his official duty. They abused him in filthy language, threatened & assaulted him with an iron rod and stick by which he received injuries on several parts of his body. When brother of the victim Santosh saw it and came there in order to save him, the appellants left him. Thereafter, Santosh took the victim to the hospital and lodged First Information Report vide Ex.P/21.

4) Statements of the witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973. After completion of investigation, charge-sheet was filed before the Court of Chief Judicial Magistrate, Ambikapur, who in turn, committed the case to the First Additional Sessions Judge, Ambikapur.

5) In order to prove the guilt of the accused/appellants, the prosecution has examined as many as 10 witnesses. Defence witnesses Sanjay Singh (DW-1) and Babu Soni (DW-2) have also been examined in support of the appellants. The appellants were examined under Section 313 of the Cr.P.C., in which they denied the circumstances appearing against them and claimed innocence and false implication in the crime in question.

6) After providing opportunity of hearing to the parties, learned First Additional Sessions Judge, Ambikapur has convicted and sentenced the appellants as aforementioned.

7) I have heard learned counsel for the parties, perused the judgment impugned and record of the trial Court.

8) At the outset, learned counsel for the appellants submits that in light of evidence of the witnesses available on record, he is not disputing the conviction, but considering the age of the appellants and the fact that they are in jail for nearly four years, the sentence requires re-consideration as the appellants have already completed nearly four years of their total sentence of seven years. He further submits that the appellants have been falsely implicated in the case as medical report of the victim does not support their conviction under Section 307 IPC. He also submitted that Appellant- 1 is aged about 60 years, getting old and appellant- 2 is young, aged about 24 years. Therefore, looking to the age of the appellants and their custody period, their sentence may be reduced to the period already undergone by them.

9) On the other hand, learned State counsel and learned counsel for the objector supported the judgment impugned and submitted that the evidence adduced on behalf of the prosecution is sufficient for drawing inference that the appellants have committed the offence. He also submitted that the victim/complainant is a public servant and had been obstructed from doing his official duty by the appellants.

10) In order to appreciate the arguments advanced on behalf of the parties, I have examined the evidence available on record.

11) There is no dispute regarding age of the appellants and they completed nearly four years of their total sentence of seven years.

12) Looking to the submissions made by learned counsel for the parties and facts and circumstances of the case, considering that the appellants do not want to challenge the conviction imposed upon them, rather they only pray for reduction of the sentence, the prayer of learned counsel for the appellants appears to be acceptable.

13) In my view, considering all the facts and circumstances of the case and looking to the age of the appellants, it would be appropriate that while enhancing the fine amount imposed upon the appellants, if the jail sentence is reduced to the period for which they remained in jail, that would meet the ends of justice.

14) In the result, the appeal is partly allowed. The judgment of conviction against the appellants under Sections 341/34, 186/34, 353/34 and 307/34 of the IPC by the Court below is hereby

maintained. So far as sentence of the appellants is concerned, since the appellants have already undergone jail sentence for a period of nearly four years; the offence was committed on 24.08.2011 and also looking to the age of the appellants, they are sentenced to the period already undergone by them. However, each of the appellants is further required to pay a fine of Rs.10,000/-. The sentence is thus converted to additional fine of Rs.10,000/-. On realisation, the amount shall be paid to the victim/complainant Alok Kumar Singh within two months from the date of receipt of this order. In default of payment of fine amount, the appellants shall undergo SI for six months.

15) It is stated that the appellants are in jail. They be set at liberty forthwith, if not required in any other case.

Sd/-

(Anil Kumar Shukla)
JUDGE