

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.2411 of 2000

1. Girwar, aged about 41 years, S/o Daniram Kurmi, R/o Village Majgaon, P.S. Nawagarh, District Durg (M.P.) (now Chhattisgarh)
2. Roop Singh, aged about 55 years, S/o Madhur Singh Bond, R/o Village Majgaon, P.S. Nawagarh, District Durg
3. Dhan Singh, aged about 42 years, S/o Bangdeo Katar, R/o Village Majgaon, P.S. Nawagarh, District Durg
4. Daniram, aged about 70 years, S/o Ram Prasad Kurmi, R/o Village Majgaon, P.S. Nawagarh, District Durg
5. Hari Ram, aged about 55 years, S/o Purushottam Nirmalkar, R/o Village Majgaon, P.S. Nawagarh, District Durg

---- Appellants

versus

State of Madhya Pradesh (now Chhattisgarh) through Police Station Nawagarh, District Durg

--- Respondent

For Appellants	:	Shri Vishnu Koshta, Advocate
For State/Respondent	:	Ms. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

28.11.2017

1. This appeal has been preferred against the judgment dated 29.8.2000 passed in Sessions Trial No.394 of 1993 by the Additional Sessions Judge, Bemetara convicting and sentencing the accused/Appellants as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 148 of the Indian Penal Code	Rigorous Imprisonment for 1 year
Under Section 325 read with Section 149 of the Indian Penal Code	Rigorous Imprisonment for 2 years and fine of Rs.300/- with default stipulation
Under Section 324 read with Section 149 of the Indian Penal Code (Two Counts)	Rigorous Imprisonment for 1 year and fine of Rs.100/- with default stipulation
Under Section 323 read with Section 149 of the Indian Penal Code (Two Counts)	Rigorous Imprisonment for 6 months and fine of Rs.100/- with default stipulation

2. Case of the prosecution, in brief, is that on 22.10.1992 at about 4:00 p.m., all the five Appellants assaulted Complainants Baldau (PW1), Kedar (PW2), Jitendra (not examined by the prosecution), Haribhajan (PW7) and Ramesh (PW14) with Tangia and Lathi at Village Majgaon on account of an old dispute regarding a temple with an intent to commit their murder. They assaulted on the heads of Baldau and Haribhajan with Tangia. Kedar sustained grievous injury on the left hand. Other Complainants also sustained injuries. First Information Report (Ex.P1) was lodged by Baldau. All the injured were examined by Dr. B.N. Dewangan (PW10). Seizures of articles were made from the Appellants. Statements under Section 161 of the Code of Criminal Procedure were recorded. On completion of the investigation, a charge-sheet was filed against the Appellants for offences punishable under Sections 147, 148, 149, 323, 324, 325 and 307 of the Indian Penal Code. Charges were framed against them under Sections 147, 148, 307/149 (Two Counts), 324/149, 323/149 (Two Counts) of the Indian Penal Code.
3. In support of its case, the prosecution examined as many as 14 witnesses. Statements of the Appellants were also recorded under Section 313 of the Code of Criminal Procedure in which they denied the circumstances appearing against them, pleaded innocence and false implication.
4. After trial, the Trial Court convicted and sentenced the Appellants as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellants submitted that he does not press this appeal on merits and confines his argument to

the sentence part only. He further submits that Appellants No.1 and 2 have already undergone about 2½ months, Appellants No.3, 4 and 5 have already undergone about 2 months. All of them are facing the /is since 1992. They have no criminal antecedent. Therefore, their sentence may be reduced to the period already undergone by them.

6. Per contra, Learned Counsel appearing for the State supported the impugned judgment.
7. I have heard Learned Counsel appearing for the parties and perused the record.
8. Considering the above facts and circumstances of the case, I am of the opinion that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail sentences awarded to them are reduced to the period already undergone by them and the sentences of fine are affirmed. Ordered accordingly.
9. Consequently, the appeal is allowed in part to the extent indicated above.
10. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge