

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 521 of 2004

1. Sarvottam Sahu S/o Paras Sahu, aged about 48 years, R/o Village Dashrangpur, Tahsil Mungeli, District Bilaspur, CG

---- Applicant

Versus

1. State of Chhattisgarh through District Magistrate, Bilaspur, CG

---- Respondent

For Applicant	:	Shri Suresh Verma, Advocate
For Respondent/State	:	Shri Avinash K.Mishra, PL

Order on Board by Pritinker Diwaker, J

03/05/2017

This revision petition has been filed by the applicant against the judgment and order dated 11.10.2004 passed by Additional Sessions Judge (FTC) Mungeli, in Criminal Appeal No. 43/2004 affirming the conviction part of the judgment and order dated 6.1.2004 passed by Judicial Magistrate First Class, Mungeli in Criminal Case No. 787/1994 convicting the applicant for the offence punishable under Section 326 IPC and sentencing him to undergo RI for three years with fine of Rs. 5000/- plus default stipulation. Sentence of RI for three years imposed by the trial Court has however been reduced by the Lower Appellate Court to RI for one year but the sentence of fine awarded to the applicant by the trial Court i.e. Rs. 5,000/- has been maintained.

2. Case of the prosecution in brief is that acquitted accused Narendra used to tease the niece of complainant Bhuvan Singh which led to some altercation between the two groups. It is alleged that on 12.8.1994 at about 11 AM, accused/applicant and the

acquitted accused Narendra threw some inflammable substance on Bhuvan Singh. He was immediately taken to hospital and as per medical examination report Ex. P-9 which was conducted by Dr. Rajiv Ratan Tiwari (PW-8) he suffered 45% burn injury on face, chest, upper limb and abdomen. Thereafter, FIR Ex. P-1 was registered on the same day at the instance of Lakhan Singh (PW-1) for the offence punishable under Section 326 IPC followed by framing of charge by the trial Court under the same section.

3. In order to hold the accused persons guilty, the prosecution examined as many as 11 witnesses. Statements of the accused persons were also recorded under Section 313 of the Code of Criminal Procedure where they denied their guilt and pleaded innocence and false implication in the case.

4. The trial Court, after considering the material available before it, acquitted the co-accused Narendra of the charge levelled against him but convicted the accused/applicant under Section 326 IPC and sentenced him to undergo RI for three years with fine of Rs. 5,000/-. However, in appeal learned lower appellate Court maintained the conviction but reduced the sentence to RI for one year from that of three years maintaining the sentence of fine awarded by the trial Court.

5. Counsel for the applicant submits that the accused/applicant has been falsely implicated in the case as there is no evidence to show that victim Bhuvan Singh suffered any injury caused by acid being thrown on him. He submits that the seizure witnesses have also not supported the case of the prosecution. According to him, looking to the injuries suffered by the victim, at best the offence under Section 324 IPC is made out against him.

6. Counsel for the respondent/State however supports the judgment impugned and submits that the lower appellate Court has already taken an extra lenient view while reducing the sentence to RI for one year from that of three years as was imposed by the trial Court. He submits that in a case of acid attack, severe punishment is required to be handed down. State counsel further submits that the victim remained in hospital for 33 days and was lucky enough to survive such deadly acid attack, and if not provided proper medical aid in time he would have either lost his life or at least the limbs.

7. Heard counsel for the parties and perused the documents on record.

8. Lakhan Singh (PW-1) has stated that on the date of incident at about 10.30 AM the accused/applicant had been to the betel shop of Narottam and Ramswarup to chew betel leaf where victim Bhuvan Singh was already present. He has further stated that when the victim was about to get back, the applicant threw the acid from the kettle carried by him. After such acid attack, the victim jumped into a nearby pit full of rain water. Thereupon, he (this witness) took him out and after wrapping him in a wet bed-sheet, took to the hospital and got admitted, and then the report (Ex.P-1) was lodged. Bhuvan Singh (PW-2) - the victim has stated that on the date of incident at about 11 AM he had gone to a betel shop and 10-15 minutes thereafter the accused/applicant herein also happened to be there and started conversing with one Jethu. Thereafter, when he was to leave the shop, accused/applicant threw acid from the kettle carried by him as a result of which he suffered burn injuries

on ear, chest and arm. He has further stated that after the burn became unbearable, he jumped into a nearby pit full of rain water. Thereafter, his brother took him out, carried home from where shifted him to hospital. At the time of incident, according to this witness, other persons namely Shiv, Ramswarup and Devcharan were also present. Mool Chand (PW-3) has stated that when his daughter Mina was out for school, Narendra (acquitted accused) used to tease her for which the victim had slapped him once and out of this ill-will the accused persons threw acid on the victim when he was sitting in the betel shop. Keshav Prasad (PW-4) has stated that on the date of incident when the victim was to leave his betel shop, the accused/applicant herein threw something from the pot held by him on account of which he (victim) started crying for safety and jumped into a nearby watery pit. He has stated that after the said substance was thrown at the victim, blisters had appeared all over his body. Ganga Prasad (PW-5) is the witness before whom extra-judicial confession was made by the accused/applicant. Ramswarup (PW-6) is also one of the eyewitnesses and he too has supported the case of the prosecution. Dr. Rajiv Ratan Tiwari (PW-9) is the witness who medically examined the injured and gave his report Ex.P-9 stating that he noticed 45% burns on various parts of his body such as face, chest, upper limb and abdomen. He has opined the injuries to be grievous in nature and could be caused with acid. He has denied the fact that the victim was intentionally kept in the hospital for more than 20 days. Mukesh Ram (PW-10) is the investigating officer who has duly supported the case of the prosecution. Dilip (PW-11) has stated that he had seen the victim shouting and running towards the pit full of water, but did not see the accused persons.

9. Material on record thus clearly establishes the guilt of the accused/applicant where on the date of incident he threw acid on the victim (PW-2) as a result of which he suffered number of burn injuries on his body. The doctor (PW-9) who medically examined the victim has found those injuries to be grievous in nature which could be caused by acid. This apart, there are other witnesses also including the victim and the complainant who have fully supported the case of the prosecution stating the manner in which accused/applicant made an acid attack on the victim. In these circumstances, conviction of the accused/applicant under Section 326 IPC cannot be said to be at fault and it is accordingly maintained. Lower Appellate Court has already taken a lenient view in reducing the jail sentence from three years to one year and therefore, no further leniency in sentence is required.

10. Revision thus being devoid of any substance is liable to be dismissed and it is hereby dismissed. Applicant is on bail. He be arrested and sent to custody forthwith to serve out the sentence imposed on him.

Sd/-
(Pritinker Diwaker)
Judge