

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.827 of 2001

- 1. Xewiar Kerketta, S/o Shani Kerketta, aged 40 years,
- 2. Anil Kerketta, S/o Xewiar Kerketta, aged 18 years,

Both resident of Village Khawaskani, Police Station Pharsabahar,
District Jashpurnagar (Chhattisgarh)

---- Appellants

versus

State of Chhattisgarh through District Magistrate, Jashpurnagar

--- Respondent

For Appellants	:	Shri Sanjay Agrawal, Advocate
For State/Respondent	:	Ms. Madhunisha Singh, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

26.10.2017

- 1. This appeal has been preferred against the judgment dated 4.7.2001 passed in Sessions Trial No.140 of 2000 by the 2nd Additional Sessions Judge (FTC), Jashpurnagar convicting and sentencing the accused/Appellants as under:

<u>Accused</u>	<u>Conviction</u>	<u>Sentence</u>
Xewiar Kerketta	Under Section 325 of the Indian Penal Code	Rigorous Imprisonment for 5 years and fine of Rs.5,000/-, in default of payment, to undergo additional simple imprisonment for 3 months
Anil Kerketta	Under Section 325/34 of the Indian Penal Code	Accused Anil has already been released under Section 4 of the Probation of Offenders Act on furnishing a personal bond for Rs.2,000/-

- 2. Case of the prosecution in brief is that on 21.5.2000 she goat of injured/Complainant Asaru had grazed the crop of paddy of

accused Xewiar and, therefore, Xewiar had assaulted that she goat. As a result of the assault, she goat had sustained injury on the leg. On 22.5.2000 at about 1:00 p.m., Asaru went to accused Xewiar and asked him about the reason of assault on his she goat. Accused Xewiar abused Complainant Asaru and quarreled with him. Thereafter, both the accused/Appellants assaulted Asaru with Lathi and inflicted injuries on his head, back, right wrist, legs, arms and near eyebrow. First Information Report (Ex.P13) of the incident was lodged by Asaru on the date of incident itself, i.e., 22.5.2000 at about 4:30 p.m. He was examined by Dr. G.S.Paikara (PW4). On completion of the investigation, a charge-sheet was filed against the accused/Appellants under Section 307/34 of the Indian Penal Code. Charge was framed against them under Section 307/34 of the Indian Penal Code.

3. After trial, the Trial Court convicted and sentenced the accused/Appellants as mentioned in the first paragraph of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the accused/Appellants submits that he does not want to press this appeal on merits and confines his arguments on the sentence part only. He further submits that the matter is of the year 2000. The accused/Appellants are facing the *lis* for the last 17 years. Both the accused have no criminal antecedent. Out of the total jail sentence of 5 years, accused Xewiar has already undergone about 1 year and 4 months. Accused Anil has already been released under Section 4 of the Probation of Offenders Act on furnishing a personal bond for Rs.2,000/-. There is no report that he has misused the liberty granted to him. Therefore, Learned Counsel prays that the jail

sentence awarded to accused Xewiar may be reduced to the period already undergone by him.

5. On the contrary, Learned State Counsel opposed the prayer made by Learned Counsel for the accused/Appellants and supported the impugned judgment.
6. Considering the above facts and circumstances of the case, I am of the considered opinion that the ends of justice would be met if, while upholding the finding of conviction of both the accused, the jail sentence awarded to accused Xewiar is reduced to the period already undergone by him and his sentence of fine is affirmed. Ordered accordingly.
7. As accused Anil has already been released under Section 4 of the Probation of Offenders Act on furnishing a personal bond for Rs.2,000/- and there is no report against him that he has misused the liberty granted to him, no further order is required to be passed in his respect.
8. Consequently, the appeal is allowed in part to the extent indicated above.
9. 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