

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.273 of 2004

Robin Logan, S/o David Logan, aged about 40 years, R/o Sector-6, 376
BALCO Nagar, P.S. Balco Nagar, District Korba, Chhattisgarh

---- **Petitioner**

versus

State of Chhattisgarh through P.S. Balco Nagar, Korba, District Korba,
Chhattisgarh

--- **Respondent**

For Petitioner	:	Shri Adil Minhaj, Advocate
For State/Respondent	:	Shri Rajendra Tripathi, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

2.8.2017

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 6.5.2004 passed in Criminal Appeal No.46 of 2004 by the Additional Sessions Judge, Korba arising out of the judgment dated 23.12.2003 passed in Criminal Case No.2039 of 2002 by the Judicial Magistrate First Class, Korba convicting the Petitioner/accused under Section 326 of the Indian Penal Code and sentencing with rigorous imprisonment for 2 years and to pay fine of Rs.3,000/- with default stipulation. In appeal, the Learned Additional Sessions Judge has upheld the conviction imposed upon the Petitioner, but reduced the jail sentence to rigorous imprisonment for 2 months with affirmation of the fine sentence.
2. Case of the prosecution, in brief, is that on 27.4.1984 at about 8:30 a.m., Complainant Rajendra Singh along with his friend Paresh had gone to HSEL Club for watching a movie. While watching the movie, the Petitioner/accused asked Paresh to keep mum and threatened him that if he does not do so he will beat him. When

the Complainant interfered, the Petitioner, abusing the Complainant and threatening him that he will tell him just now, went to his house. After sometime, when the Complainant and his friend Paresh were taking breakfast, one Ajay came to them and informed the Complainant that the Petitioner was abusing him. After sometime, when the Complainant and the Petitioner met, the Complainant asked the Petitioner about the reason of abusing him. The Petitioner, again abusing him, took out a knife from his pocket and assaulted him on the left elbow with the knife and thereafter fled from there. A report was lodged by the Complainant in Police Station Balco Nagar. After investigation, a charge-sheet was filed against the Petitioner/accused. After trial, the Judicial Magistrate First Class passed the judgment of conviction and sentence and in appeal, the Learned Additional Sessions Judge affirmed the conviction, but reduced the jail sentence as mentioned above. Being aggrieved, the Petitioner preferred the instant revision.

3. Learned Counsel appearing for the Petitioner submits that he does not press this revision on merits and confines his argument to the sentence part only. He further submits that the matter is of the year 1984. The Petitioner has no criminal antecedent. He is facing the *lis* for about 33 years. He further submits that the Petitioner is now working as a teacher in a private school and a compromise has already taken place between the parties. He further submits that the Petitioner, out of the total jail sentence of 2 months, has already undergone the period of about 15 days. Therefore, the jail sentence awarded to the Petitioner may be reduced to the period already undergone by him.

4. On the contrary, Learned State Counsel opposed the revision and

supported the impugned judgment.

5. It is not in dispute that the matter relates to the year 1984 and the Petitioner is facing the *lis* for the last 33 years. A compromise has already taken place between the parties. Now, the Petitioner is working as a teacher in a private school. He has no criminal antecedent. Out of the total jail sentence of 2 months, he has already undergone the period of about 15 days.
6. Considering the above facts and circumstances of the case, I am of the considered opinion that the ends of justice would be served if, while upholding the finding of conviction, the jail sentence awarded to the Petitioner is reduced to the period already undergone by him.
7. Consequently, the criminal revision is allowed in part. The conviction imposed upon the accused/Petitioner under Section 326 of the Indian Penal Code is upheld, but the jail sentence awarded to him thereunder by the impugned judgment is reduced to the period already undergone by him. The fine sentence imposed upon him by the impugned judgment is also affirmed.
8. It is reported that the Petitioner is on bail. His bail bonds are not discharged at this stage and the same shall remain operative for a further period of six months from today in view of the provisions contained in Section 437A of the Cr.P.C.
9. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge