

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 641 of 2004

Order reserved on : 13.01.2017

Order passed on : 18.01.2017

- Rehan Ahmed, S/o Late Afak Ahmed Ansari, aged about 24 years, R/o Behind Kelabadi Masjid, Durg (CG) ---- **Applicant**

Versus

- State of Chhattisgarh through District Magistrate, Durg (CG)
---- **Respondent**

For Applicant	:	Smt Smita Jha, Advocate on behalf of Smt Fouzia Mirza, Advocate
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Shri Justice Anil Kumar Shukla

CAV Order

1) This revision is directed against the judgment dated 30.11.2004 by which learned Sessions Judge, Durg, in Criminal Appeal No.297 of 2004 altered the judgment of conviction and order of sentence passed by the Judicial Magistrate First Class, Durg in Criminal Case No. 406 of 2002 of the on 13.09.2004 and convicted the applicant for committing the offences punishable under Sections 323 and 506 Part-II of the IPC and sentenced him to undergo RI for six months on each count.

2) Prosecution story, in brief, is that house of the present applicant- Rehan Ahmed was situated in front of the house of complainant- Shahnaz Khan. Rehan Ahmed used to tie his goats in front of house of Shahnaz Khan and she used to deny him for doing so, many a times. On 18.08.1999 when applicant- Rehan

Ahmed tied his goats in front of the house of complainant- Shahnaz Khan, she and her husband Anis Khan unaccredited the same on which applicant- Rehan Ahmed started abusing them in filthy language and also assaulted them with a chain that was being used for tying the goats. When the neighbours Shabir Khan and his wife Shamim Khan tried to intervene, the applicant started assaulting them also by hands and fists. Complainant- Shahnaz Khan lodged a complaint against him which was registered under Sections 294, 323, 325 and 506 Part-II of the IPC. After completion of the investigation, charge-sheet was filed against him. Learned trial Court has convicted and sentenced the applicant under Sections 323, 325 and 506 Part-II of the IPC, while learned appellate Court has set aside the conviction and sentence under Section 325 of the IPC and confirmed his conviction and sentence under Sections 323 and 506 Part-II of the IPC.

3) I have heard learned counsel for the parties, perused the judgment impugned, statements of the witnesses and other documents relevant to the present case.

4) Learned counsel for the applicant did not take any specific plea in the case. At the outset, she submitted that the applicant has been facing Criminal Case against him since the year 1999 i.e. for about 17 years and now he is 37 years old; there is no criminal antecedents against him and this is his first offence. He has served jail sentence of approximately two months and had been granted bail by this Court on 24.12.2004. Therefore, considering all the

facts and circumstances, learned counsel for the applicant prays to reduce the sentence of the applicant imposed upon him to the period already undergone by him.

5) On the other hand, learned State counsel opposed the revision and supported the impugned judgment though not disputed the above facts.

6) In exercise of revisional jurisdiction, this Court may examine the concurrent findings of the Courts below for the purpose of satisfying itself as to the correctness, legality or propriety of any finding of the impugned judgment.

7) It is not in dispute that the applicant is now 37 years old; there is no criminal antecedent against him and the present offence is his first one. The act of the applicant is without any premeditation as the incident took place all of a sudden that too on a petty issue, for which he faced trial, appeal & the present revision for the past 17 years. He remained in custody for nearly two months and the total sentence awarded to him is six months.

8) Considering all the facts and circumstances of the case, also considering that the present applicant is a man of 37 years old, his custody period as well as the period of trial, appeal and revision, I am of the considered opinion that ends of justice would be met if the jail sentence awarded to the applicant is reduced to the period already undergone by him. It would not be in the interest of justice to send him back to Jail after a long gap of 17 years.

9) Accordingly, on the basis of the aforesaid discussion, the revision filed by the applicant is hereby partly allowed. The conviction of the applicant under Sections 323 and 506 Part II of the IPC is hereby maintained. However, his sentence is reduced to the period already undergone by him.

10) It is reported that the applicant is on bail. His bail bonds are not discharged at this stage and shall remain operative for a further period of six months in view of the provisions contained under Section 437-A of the Cr.P.C.

Sd/-
(Anil Kumar Shukla)
JUDGE

padma