

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 91 of 2008**

- Taiyab Husain, aged 26 years, son of Akhtar Hussain, resident of near Hotel Chandrika, Masanganj, Bilaspur, Police Station Civil Line, Bilaspur, tehsil and district Bilaspur (C.G.)

---- Revisioner

Versus

1. Chetan Dubey, aged 24 years, son of Udaybhan Dubey, resident of Kalpana Vihar, Ameri Road, Bilaspur, P.S. Civil Line, tehsil/distt. Bilaspur (C.G.)
2. Alok Singh, aged 20 years, S/o Shri Ashok Singh R/o Vikash Nagar, 27 Kholi, P.S.-Civil Line, Tahsil & Distt.-Bilaspur, C.G.
3. Mangal Bajpai, aged 19 years, son of Shri Rajesh Bajpai, R/o Kududand, P.S.-Civil Line, Bilaspur, Tahsil & Distt.-Bilaspur, C.G.
4. Sanjay Pandey @ Raju Pandey, aged 24 years, S/o Ramesh Chandra Pandey, r/o Milan Chowk, kududand, P.S.-Civil Line, Bilaspur, Tahsil & Distt.-Bilaspur, C.G.
5. Vikram Singh, aged 21 years, S/o Ramnath Singh Thakur R/o Village Pakariya, P.S. Masturi, At Present R/o 27 Kholi, Shiv Mandir, P.S. Civil Line Bilaspur, Tahsil & Distt.-Bilaspur, C.G.
6. State Of C.G. Through: P.S. Civil Line, Bilaspur, Distt.-Bilaspur, C.G.

---- Respondents

For Petitioner	:	None appears
For Respondent No.1 to 5	:	Shri Y.C.Sharma, Advocate
For Respondent No.6	:	Shri Ravindra Agrawal, P.L.

Hon'ble The Chief Justice
Hon'ble Shri Justice Sanjay Agrawal

Order On Board**31/01/2017****Per Deepak Gupta, Chief Justice**

1. This petition has been called yesterday, when none had appeared on behalf

of the petitioner. We had adjourned the case for today with a clear stipulation that if none appears for the petitioner today, we shall dispose of the revision petition on merits.

2. This petition by the victim is directed against the judgment dated 27.09.2007 delivered by the learned 2nd Additional Sessions Judge, Bilaspur, in Sessions Trial No. 04/2007 whereby he acquitted the accused persons of having committed offences punishable under Sections 147, 148, 307 read with Section 149 of the I.P.C.

3. The prosecution story, briefly stated, is that on 29.03.2006 at about 10.00 pm, the complainant – Taiyab Hussain was standing at Hasan Sugarcane juice shop near Satyam Talkies. In the meantime, the accused came on a motorcycle and started beating Hasan. Thereafter, the complainant Taiyab Hussain intervened and asked the accused persons not to beat Hasan. However, the accused persons then beat up the complainant by using rods, belts, *dandas*, sword etc. They tried to kill him and on this basis, a report was lodged.

4. The accused persons were charged with committing the aforesaid offences. They pleaded not guilty. Trial was conducted and during the course of trial, number of witnesses were examined and the statement of the complainant was also recorded.

5. While appearing in Court, the complainant (petitioner herein) stated that when he reached Hasan Sugarcane shop, he saw 15 – 20 persons beating Hasan Ali. Since he knew Hasan Ali, he tried to save him and questioned the accused why they were beating Hasan Ali. Thereafter, all the accused persons left Hasan Ali and started beating the complainant. He received a lot of injuries. There was bleeding from his head. In the meantime, other people of the locality gathered and then the accused persons ran away. According to the petitioner, he became

unconscious at the spot. He was taken to the hospital and after he regained consciousness he recorded the F.I.R. (Ex.P.10). However, on the next day, he filed an application that in the F.I.R. the names of Sanjay Pandey and Ashok Rajput be also included. This is as per letter Ex.P.12.

6. The learned trial Court had disbelieved the statement of this witness. The reasons for this are that even according to this witness, he has been surrounded by 18 – 20 persons, whom he did not know. The complainant also stated that he could not see which of the persons had given him which blow. He then stated that there were five accused persons in front of him and the rest 15 – 20 persons were behind him. The medical evidence did not support the story of this witness. The learned trial Court, taking into consideration the fact that names of the two accused persons had been included later on and also taking into consideration the fact that the complainant could not identify the persons who caused injuries, had acquitted them. It cannot be said that this view of the trial Court is perverse view.

7. We, therefore, do not find any merit in this revision petition, which is accordingly dismissed.

Sd/-

(Deepak Gupta)
Chief Justice

Sd/-

(Sanjay Agrawal)
Judge