

Checked & Verified, 2013

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Single Bench

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH AT BILASPUR.

CR. Revision No. -----15-----/2005

APPLICANT

(in jail)

- KUMAR SINGH S/O DHAN SINGH GOND

Aged about 30 years,

R/O Bhirai P.S. Gurur

Distt. Durg (C.G.)

VERSUS

NON-APPLICANT

- STATE OF CHHATTISGARH.

CRIMINAL REVISION UNDER SECTION 397 READ WITH SECTION
401 OF CODE OF CRIMINAL PROCEDURE, 1973.

56/05

09/01/05

A. Surkar

805/01/05



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NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 15 of 2005

- Kumar Singh S/o Dhan Singh Gond, aged about 30 years, R/o Bihari PS Gurur, Distt. Durg (CG)

---- Applicant

Versus

- State Of Chhattisgarh

---- Respondent

For Applicant	:	Shri Praveen Dhurandhar, Advocate.
For Respondent/State	:	Shri Adil Minhaj, Panel Lawyer.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

10/05/2017

This revision arises out of the judgment and order dated 30.12.2004 passed by Additional Sessions Judge, Balod, Distt. Durg in Cr.A.No.273/03 affirming the judgment and order dated 27.5.2003 passed by Judicial Magistrate First Class, Balod in Criminal Case No.983/02 whereby the trial Court had convicted him under Section 325 of IPC and sentenced to undergo RI for one year and fine of Rs.1000/- with default stipulation.

02. As per the prosecution case, on 24.5.2002 at about 5.30 pm the accused/applicant assaulted complainant Anjoriram Sahu (PW-1) by a cricket stump as a result of which he suffered four lacerated wounds and fracture of humerus bone and acromion bone. FIR (Ex.P/9) was registered against the applicant on 26.5.2002 under Section 294, 506



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Part II and 323 of IPC on the basis of Dehati Nalishi. After investigation, charge sheet was filed and the trial Court framed charges under Sections 325, 294, 506 Part II of IPC against him.

03. So as to hold the accused guilty the prosecution examined as many as 10 witnesses in all. Statement of the accused was recorded under Section 313 of CrPC in which he denied the circumstances appearing against him and pleaded innocence and false implication. In defence, he examined one witness.

04. The trial Court after hearing counsel for the respective parties and considering the material on record, by the judgment dated 27.5.2003 convicted the applicant under Section 325 of IPC and sentenced him to undergo RI for one year and fine of Rs.1000/- with default stipulation. In appeal, the appellate Court also affirmed the judgment of the trial Court vide impugned judgment dated 30.12.2004.

05. Counsel for the applicant submits that he is not pressing this revision on merits and is confining his arguments only to the point of sentence part. He submits that the applicant has already remained in jail for about 22 days, the incident occurred way back in the year 2001, the applicant is now a middle aged person having family responsibility and therefore, instead of sending him back to jail at this stage, his sentence may be reduced to the period already undergone by him. He submits that the applicant is ready and willing to pay suitable compensation to the victim.

06. On the other hand, supporting the impugned judgment it has submitted by the State counsel that conviction and sentence awarded



by both the Courts below is just and proper and the same need no interference by this Court.

07. Heard counsel for the respective parties and perused the material on record.

08. As regards conviction of the applicant under Section 325 of IPC, PW-1 Anjori, the injured, while supporting the prosecution case has categorically stated as to the manner in which on 24.5.2002 he was caused grievous hurt by the applicant by means of cricket stump. On the memorandum of the applicant, the said stump was seized and the witnesses to memorandum and seizure have also supported the prosecution case. Further, PW-5 Khuman Singh, PW-6 Shivnath and PW-7 Bisalikram, who are the eyewitnesses to the incident, too have supported the prosecution case. The above ocular evidence further stands corroborated from the medical report of the injured Anjori (PW-1) according to which he suffered as many as four lacerated wounds as also fracture of humerus bone and acromion bone, which were grievous in nature. Defence has utterly failed to adduce any evidence in rebuttal. As such, both the Courts below were fully justified in recording conviction of the applicant under Section 325 of IPC. This Court does not find any reason to upset the said finding.

09. So far as quantum of sentence is concerned, considering the facts and circumstances of the case, the fact that the incident took place about 15 years back and the applicant has already suffered 22 days custodial sentence, in the considered opinion of this Court, no useful purpose would be served in sending him back to jail at this stage and the ends of justice would meet if his jail sentence is reduced to the

period already undergone by him and he is directed to pay compensation of Rs.10,000/- under Section 357 of Cr.P.C. to the victim (PW-1).

10. In the result, the revision is allowed in part. While maintaining conviction of the applicant under Section 325 of IPC, he is sentenced to the period already undergone by him. However, he is directed to deposit a sum of Rs.10,000/- with the concerned trial Court within a period of six months from today, failing which he shall have to suffer jail sentence of three months. The amount so deposited shall be paid as compensation under Section 357 of Cr.P.C. to the victim i.e. PW-1 Anjori, S/o Dharmu, by the trial Court after due verification.

Sd/-

(Pritinker Diwaker)

Judge