

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.338 of 2005**

1. Moharlal, S/o Fulsai, aged about 19 years, Occupation Agriculture,
 2. Kisan, S/o Sumit Ram (wrongly mentioned Sumil Ram), aged about 20 years, Occupation Agriculture,
- Both are R/o Village Gersa, P.S. Dhaurpur, District Surguja, Chhattisgarh

---- Applicants**versus**

State of Chhattisgarh through P.S. Dhaurpur, District Surguja, Chhattisgarh (as mentioned in order of trial court)

--- Respondent

For Applicants	:	Shri Bhupendra Singh, Advocate
For State/Respondent	:	Smt. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****5.12.2017**

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 20.7.2005 passed in Criminal Appeal No.35 of 2005 by the Sessions Judge, Surguja at Ambikapur by which the Learned Sessions Judge has affirmed the conviction but reduced the sentence imposed upon the Applicants vide judgment dated 8.2.2005 passed in Criminal Case No.783 of 2004 by the Judicial Magistrate First Class, Ambikapur convicting and sentencing each of the Applicants as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 325/34 of the Indian Penal Code	Rigorous Imprisonment for 1 year and fine of Rs.500/- with default stipulation
Under Section 323 of the Indian Penal Code	Rigorous Imprisonment for 6 months and fine of Rs.300/- with default stipulation

Learned Sessions Judge affirming the sentence of fine reduced the rigorous imprisonment of 1 year to 6 months for the offence under Section 325/34 of the Indian Penal Code and affirming the sentence of fine reduced the rigorous imprisonment of 6 months to 3 months for the offence under Section 323 of the Indian Penal Code.

2. Case of the prosecution, in brief, is that on 30.5.2001 at about 6:00 p.m., Complainant Kalpnath (PW1) along with his wife was at their home. Their children along with other children were playing outside. At that time, both the Applicants came there in drunken condition, started abusing and assaulting the children. Sontariya Bai, wife of the Complainant went out of home. The Applicants also assaulted her by hurling stones on her. When Complainant Kalpnath came out of home, Applicant Moharlal assaulted him with fist and lathi. The incident was witnessed by Deosai (PW6). The matter was reported. First Information Report (Ex.P8) was registered. On completion of the investigation, a charge-sheet was filed against the Applicants for offences punishable under Sections 448, 323, 325, 294, 34 of the Indian Penal Code. Charges were framed against them under Sections 452, 294, 325 or 325/34, 323 or 323/34 of the Indian Penal Code.
3. After trial, the Trial Court convicted and sentenced the Applicants and the Appellate Court affirmed the judgment of conviction but reduced the sentence as mentioned in the first paragraph of this order. Hence, this revision.
4. Learned Counsel appearing for the Applicants submits that he does not press this revision on merit and confines his argument to

the sentence part only. He further submits that out of the total jail sentence of 6 months, the Applicants have already undergone about 15 days. They are facing the *lis* since 2001, i.e., for about 16 years. They have no criminal antecedent. Therefore, the sentence awarded to them may be reduced to the period already undergone by them.

5. Per contra, Learned Counsel appearing for the State supported the impugned judgment.
6. I have heard Learned Counsel appearing for the parties and perused the record with due care.
7. Considering the above facts and circumstances of the case, I am of the opinion that the ends of justice would be met if, while upholding the conviction imposed upon the Applicants, they are sentenced with the period already undergone by them. Ordered accordingly. The sentence of fine imposed upon them for the offence under Section 323 of the Indian Penal Code is affirmed. The amount of fine imposed upon them for the offence under Section 325/34 of the Indian Penal Code is enhanced to Rs.5,000/-. This amount shall be payable within two months from the date of receipt of a copy of this order. In default of payment, the Applicants shall be liable to undergo simple imprisonment for 2 months. If any amount has already been deposited towards fine for the offence under Section 325/34 of the Indian Penal Code, the same shall be adjusted in the amount of fine imposed/enhanced today.
8. Consequently, the revision is allowed in part to the extent indicated

above.

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