

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 8-10-2018****Delivered on 9-10-2018****CRIMINAL APPEAL No. 2160/2000**

(Arising out of judgment of conviction and order of sentence dated 18<sup>th</sup> August, 2000 passed by the Additional Sessions Judge, Balod in S.T. No. 198/2000)

- Premlal S/o Nandlal, aged about 46 years, R/o village Dhanapuri, PS Gurur, District Durg (MP).

**----Appellant****-Versus-**

- State of M.P. through P.S. Gurur, District – Durg (M.P.)

**----Respondent**

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For appellant : Shri Alok Dewangan, Adv.

For State : Shri S.K. Mishra, PL

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**Hon'ble Shri Sharad Kumar Gupta, Judge****CAV JUDGMENT**

1. In this criminal appeal the challenge levied is to the judgment of conviction and order of sentence dated 18<sup>th</sup> August, 2000 passed by the Additional Sessions Judge, Balod, District - Durg in S.T. No. 198/2000 whereby and whereunder he convicted the appellant for the offence punishable u/s 324 of the Indian Penal Code (hereafter called as 'IPC') and sentenced him to undergo RI for 3 years.
2. In brief, case of the prosecution is that on 24/10/1999 at about 09:00 am in village – Dhanapuri, appellant stopped prosecutrix,

abused her and caused injuries on her head by club. After completing the investigation a charge sheet was filed against him. Trial Court framed charges against him under Sections 341, 294, 307 IPC. He abjured the charges and faced trial. After conclusion of the trial, Trial Court acquitted him from the charges under Sections 341, 294, 307 IPC and convicted him as aforesaid.

3. Shri Alok Dewangan, counsel for the appellant urged at this stage that, he is not challenging the conviction of the appellant rather he is challenging only the aforesaid period of sentence of RI for 3 years awarded u/s 324 IPC. He further submitted that the appellant has already undergone about 5 months thus the period of RI for 3 years may be reduced to the period of undergone.
4. Shri S.K. Mishra, Panel Lawyer argued that aforesaid RI is just and proper and does not call for any interference.
5. At the time of the incident, no minimum imprisonment was provided for the offence punishable under Section 324 IPC. The appellant has remained in jail from 27.03.2000 to 18.08.2000. About 19 years have passed after the incident. At the time of incident, he was aged about 46 years, now he is about 65 years old. Now he is in mainstream of society. Sending him to jail would disturb him as well as his family members' life. Hence, no useful purpose would be served if he is sent to jail after 19 years of the incident. Looking to these circumstances and observation made by Hon'ble Supreme Court in the matter of **Manjappa -v-**

**State of Karnataka** [(2007) 6 SCC 231], I am of the opinion that cause of justice would be sub-served, if RI of 3 years is reduced to the sentence for the period already undergone by him, and in addition a suitable fine amount is imposed upon him.

6. Consequently, the appeal is partly allowed. The sentence of the appellant of RI for 3 years is reduced to the period already undergone by him, and an additional fine of Rs. 15,000/- (Rupees fifteen thousands only) is imposed on him, in default of payment of fine, to undergo RI for six months.
7. The appellant is granted three months' time from the date of this order for depositing the fine amount.
8. Rs. 10,000/- (Rupees Ten Thousand only) be given to the complainant Suruj Bai from the fine amount so deposited as compensation after the prescribed period of legal proceedings available to the party.
9. The appellant is reported to be on bail. His bail bonds stands canceled subject to the provisions of Section 437-A, Cr.P.C.

Sd/-

**(Sharad Kumar Gupta)**

Judge