

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 949 of 2000**

1. Puran Singh Dhruv, aged about 20 years S/o Amar Singh Dhruv
 2. Ghanshyam Dhruv, aged about 21 years, S/o Rajendra Dhruv
- Both R/o Khaparabhatti, Pandri, Raipur (M.P.) (Now Chhattisgarh).

--- Appellants**Versus**

The State of Madhya Pradesh (Now Chhattisgarh).

---- Respondent

For Appellants	:	Mrs. Renu Kochar, Advocate
For Respondent	:	Mr. N.K. Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****13/08/2018**

1. This appeal has been preferred against the judgment dated 28/03/2000 passed by the VIIth Additional Sessions Judge, Raipur in S.T. No. 101/1999, convicting the accused/appellants under Sections 148 and 326/149 of the IPC and sentenced them to undergo RI for 1 year and RI for 3 years with fine of Rs. 500, respectively with default stipulation.
2. Facts of the case, in brief, are that on 20/10/1998 a dispute was taken place between complainant- Shailendra (PW1) and Bathul. Later on at about 3:30 pm, when complainant- Shailendra was going to his friend Dalbir, near *Sahu Kirana* store, both the applicants along with co-accused Jolan Soni, Shiv Yadav, Fezula (died), Bathul and Manoj met

him and started abusing him. Thereafter, Fezula assaulted the complainant with axe, appellant- Ghanshyam and other co-accused- Manoj assaulted him with knife and appellant -Puran assaulted him with Gupti. Complainant sustained injuries on his hips, shoulder, thigh and stomach. Dalveer (PW9), Aarif (PW4), Manoj (PW10) and Rohit (PW2) witnessed the said incident. FIR (Ex.P-1) was lodged by the complainant. First, he was medically examined by Dr. L. Das (PW8), who gave his report (Ex.P-14). On the same day, injured Shailendra was medically operated by Dr. M. Luka (PW13) who gave his report (Ex.P-19). During the course of investigation, one knife was seized from the possession of appellant- Ghanshyam and one Gupti was seized from the possession of appellant- Puran. Statement of witnesses under Section 161 of the Cr.P.C were recorded. After trial, a charge-sheet was filed. Charges under Section 147, 148, 341, 307/149 and 294 of the IPC were framed against both the appellants along with co-accused Jolan Soni, Shiv Yadav, Fezula (died), Bathul and Manoj.

3. To prove the guilt of the accused/appellants, the prosecution examined as many as 13 witnesses. No defence witness was examined. Statements of accused/Appellants was recorded under Section 313 Cr.P.C, wherein he denied all the charges, pleaded his innocence and false implication.
4. After trial, the trial Court has acquitted co-accused Jolan Soni and Shiv Yadav from all the charges leveled against them. Co-accused- Bathul and Manoj were convicted under Section 147 of the IPC. Both appellants- Ghanshyam and Puran were convicted under Section 148

IPC and inspite of 307/149, they were also convicted under Section 326/149 of the IPC and have been sentenced as mentioned in the first paragraph of this judgment. Hence, this appeal.

5. Learned Counsel appearing for the appellants submits that he does not want to press this appeal on merits of the case and confines his argument to the sentence part only. It is further submitted that the incident is of the year 1998, the appellants are facing this *lis* since 20 years, out of total jail sentence of 3 years, the appellants have undergone about 13 days during trial and 12 days during the pendency of this appeal, therefore, the jail sentence awarded to them may be reduced to the period already undergone by him.
6. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
7. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
8. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 3 years, the appellants have undergone about 13 days during trial and 12 days during the pendency of this appeal & they are facing this *lis* since 1998, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the appellants, the jail sentenced awarded to them is reduced to the period already undergone by them.
9. Consequently, the appeal is partly allowed. The conviction imposed

upon the appellants is affirmed and the jail sentence awarded to them is reduced to the period already undergone by them. The fine sentence is also affirmed.

10. It is reported that the appellants are on bail. Their bail bonds are not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge