

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 192 of 2009**

1. Vishwanath Soni, S/o Bhogram Soni, aged about 62 years, Occupation- Agriculturist,
2. Dharmendra Soni S/o. Vishwanath Soni, aged about 34 years, Occupation- Agriculturist,
3. Narendra Soni S/o. Vishwanath Soni, aged about 32 years Occupation- Agriculturist,
4. Smt. Shanti Bai Soni W/o Vishwanath Soni, aged about 55 years, Occupation- House Wife.

All are R/o Village- Salka, Police Station- Bhatgaon, Distt.- Sarguja (C.G.).

--- Applicants

Versus

State of Chhattisgarh Through District- Magistrate, Sarguja (C.G.).

---- Respondent

For Applicants	:	Mr. Sunil Sahu, Advocate
For Respondent	:	Mr. U.K.S. Chandel, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

26/09/2018

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 06/04/2009 passed by the Additional Sessions Judge (FTC), Pratappur, Distt.- Sarguja (C.G.) in Criminal Appeal No. 21/2008, arising out of judgment of conviction and sentence dated 29/01/2009 passed in Criminal case No. 492/2003 by the Judicial magistrate First Class, Wadrafnagar. The applicants have been convicted under Sections 324/34 of IPC and sentenced to undergo RI for 1 year and to pay fine of Rs. 1000/- with default stipulation. Applicant Nos. 2 & 3 further have been convicted under Section 323/34 of IPC and

sentenced to pay fine of Rs. 1000/- each with default stipulations.

2. As per prosecution story, on 22/02/1996 complainant- Rajesh Kumar Gupta had lodged a report in the police station with the averment that at about 1:30 pm, when he went to Salka Bazar, applicants- Narendra and Dharmendra met them and asked him why he told 'Tonhi' (Bitch craft) to their mother and assaulted him. The complainant, any how, ran away from the spot. When he reached near his home, applicants- Vishwanath and his wife, Shanti Bai again started quarrel with him. At that time, brother, wife, father and mother of the complainant also came there. It is alleged that applicant- Dharmendra came with acid and threw the same on them.
3. On the basis of said report, FIR (Ex.P-12) was lodged. Injured Rajesh, Umesh, Meera and Ayodhya were medically examined by Dr. Maheshwar Singh. Injured- Umesh Kumar was referred for further treatment at District Hospital, Ambikapur where he was treated.
4. Statement of witnesses under Section 161 of the Cr.P.C were recorded. After investigation, a charge-sheet under Sections 326/34 of the IPC was submitted before the trial Court. The trial Court framed the charges against the applicants for the offence punishable under Sections 326, 323 and 324 of IPC.
5. To prove the guilt of the applicants, total 15 witnesses have been examined. After trial, the trial Court has convicted all the applicants under Sections 326/34 and 324/34 of IPC and Sentenced them to undergo RI for 3 years with fine of Rs. 5000/- and RI for 1 year with fine of Rs. 5000/-, respectively with default stipulations. In addition to above sentence, applicants- Narendra and Dharmendra was further convicted under Section

323/34 of IPC and sentenced to pay fine of Rs. 1000/- with default stipulations.

6. In an appeal preferred by the applicants, the Appellate Court vide impugned judgment dated 06/04/2009 has converted the conviction and sentence of the applicants, which is mentioned in paragraph one of this order. Hence, this revision.
7. Learned counsel appearing on behalf of the applicants submits that he does not want to press this revision on merit of the case and confines his argument to the sentence part only. He further submits that out of total jail sentence of 1 year, the applicants have undergone about 20 days during trial and 10 days during pendency of this revision. The incident is of the year 1996. The applicants are facing the *lis* since 22 years and they have no known criminal antecedent. Therefore, the jail sentence awarded to the applicants may be reduced to the period already undergone by them.
8. Learned Counsel appearing for the State opposes the prayer made by the counsel for the applicant.
9. I have heard Learned Counsel appearing for the parties and perused the material available on record.
10. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 1 year, the applicants have undergone about 20 days during trial and 10 days during pendency of this revision. The incident is of the year 1996. The applicants are facing the *lis* since 22 years and they have no known criminal antecedent, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the applicants, the jail sentenced awarded to them is

reduced to the period already undergone by them and the fine sentence of Rs. 5000/- imposed under Section 324/34 of the IPC is enhanced to Rs. 25000/- by each of the applicant. The fine sentence under Section 323/34 of IPC is affirmed. Ordered accordingly. The enhanced amount of fine under Section 324/34 shall be deposited within 1 month from the date of receipt of copy of this order. In default of payment, the applicant shall be liable to undergo SI for 3 months. The fine amount already deposited shall be adjusted in the enhanced amount of fine. Entire fine amount shall be paid as compensation to all the injured in equal ratio.

11. It is reported that the applicants/accused 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.
12. 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