

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 499 of 2004

{Arising out of judgment and order dated 1-10-2004 passed by the First Additional Sessions Judge, Raigarh, in Cr.A.No.112 of 2004}

1. Sukdev, S/o Mani Ram, aged 24 years.
2. Dhani Ram, S/o Anand Ram, aged 45 years.
3. Mani Ram, S/o Anand Ram, aged 50 years.
4. Abhinandan, S/o Mani Ram, aged 25 years.

All by caste Nagvanshi, occupation Cultivation, R/o village Bahuma, PS Lailunga, Dist. Raigarh (CG).

---- Applicants

Versus

1. The State Of Chhattisgarh, through the District Magistrate, Raigarh (CG).

---- Respondent

For Applicants
For Respondent/State

Shri Awadh Tripathi, Advocate
Shri Ratan Pusty, Govt. Advocate

Hon'ble Vacation Judge

Judgment

21/05/2018

1) Challenge in the present revision is to the judgment and order dated 1-10-2004 passed by the First Additional Sessions Judge, Raigarh, in Cr.A.No.112/2004 affirming the judgment and order dated 31-3-2004 passed by the Judicial Magistrate First Class, Gharghoda, in Criminal Case No.339/2001 thereby convicting the applicants under Section 325/34 of the IPC.

2) Brief facts of the case are that on 26-7-2001 FIR was lodged by Guruwari Bai (PW-1) alleging therein that on account of the land dispute

accused persons caused injuries to Mohanlal (PW-2) and thereafter, the accused No.2 & 3 Dhani Ram & Mani Ram also caused injuries to the complainant, as a result of which her left hand was broken.

3) Based on this FIR, offence under Sections 325 & 323 read with Section 34 of the IPC was registered against the applicants. It is alleged that the accused persons also assaulted Ganpat & Chamar Sai. Ex.P/3 to Ex.P/6 are the medical reports of Mohanlal, Chamar Sai, Ganpat, Gurrwari Bai, respectively. Ex.P/7 is the x-ray report of Gurwari Bai. From the said x-ray report, it is manifest that Guruwari Bai sustained fracture of left radius and ulna at lower end.

4) The trial Judge has framed the charge against the accused/applicants under Sections 325 and 323 read with Section 34 of the IPC.

5) So as to hold the accused/applicants guilty the prosecution has examined as many as nine prosecution witnesses. Statements of the accused were recorded under Section 313 of the Cr.P.C.

6) After completion of the trial, the trial Court convicted the applicants under Section 325/34 and sentenced them to undergo RI for 3 months and to pay a fine of Rs.100/- each. They have also been convicted under Section 323/34 of the IPC and sentenced to pay a fine of Rs.100/-.

7) In the appeal, the appellate Court has acquitted the accused persons of the charge under Section 323/34 of the IPC, however, convicted them for commission of offence under Section 325/34 of the IPC.

8) Learned counsel appearing for the applicants would submit that the applicants have undergone the entire sentence and have been set free, which is evident from the communication dated 13-6-2016 of the Chief Judicial Magistrate, Raigarh, addressed to this Court. He would submit that as such there is nothing to be decided in the present revision. He would also submit that one of the accused Mani Ram has died during pendency of this revision.

9) I have heard learned counsel appearing for the parties and perused the record.

10) Guruwari Bai (PW-1) is the complainant. She has stated that on the date of incident the accused persons started quarelling with her son Mohanlal and caused injuries to him by a club. She has also stated that she too was assaulted and as a result of which she sustained fracture. In cross-examination she remained firm.

11) Mohanlal (PW-2) is the son of the complainant, who was first beaten by the accused persons, has also supported the prosecution case and stated that he was assaulted by the accused persons.

12) Bidursai (PW-3), Kuhuram (PW-4), Jeetram (PW-5), Ganpat (PW-6) and Lachhiram (PW-8) have not supported the case of the prosecution. Dhandas (PW-7) is the village Kotwar. Dr. S. Upadhyay (PW-9) is the Doctor, who examined the injured persons.

13) Close scrutiny of the evidence makes it clear that it is the accused persons, who caused injuries to Guruwari Bai (PW-1) & Mohanlal (PW-2), who have duly supported the case of the prosecution.

14) For the foregoing, I am of the opinion that the Courts below have rightly convicted and sentenced the accused/applicants under Section 325/34 of the IPC and I do not find any substance in the present Revision.

15) Accordingly, the Revision fails and is hereby dismissed. As the applicants have already undergone the sentence, no further order is required.

Sd/-
(Pritinker Diwaker)
Vacation Judge

Gowri