

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRR No. 353 of 2008**

Bhuneshwar S/o Puluram Sahu, aged about 47 years, Occupation – Kastkari, R/o Village – Ureha, P.O. Beltara, Thana – Than Khamariya, Tahsil – Saaja, District – Durg, CG.

**---- Applicant**

**Versus**

- State of Chhattisgarh through the District Magistrate Durg, CG.

**---- Respondent**

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| For Applicant  | : | Shri Suresh Verma, Advocate |
| For Respondent | : | Smt. M. Aasha, Panel Lawyer |

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**Hon'ble Smt. Justice Vimla Singh Kapoor**

**Order On Board**

**13 /11/2018**

1. The accused / applicant has preferred this revision petition against the judgment of conviction and order of sentence dated 08.05.2008 passed by Additional Sessions Judge, (FTC) Bemetara, District – Durg, CG. in Criminal Appeal No. 95/2006 affirming the judgment dated 21.07.2006 passed by Learned Judicial Magistrate First Class, Bemetara, District – Durg, CG in Criminal Case No. 588/2005 convicting the accused/applicant u/s 325 IPC and sentencing him to undergo RI for two months with fine of Rs. 500/-, plus default stipulation.
2. Facts of the case, in brief, are that on 13.10.2000 at about 5 PM on account of some dispute over cutting of trees standing on the filed of the complainant (PW-1) the accused/applicant caused injuries to him with the help of a wooden peace and ran away thereafter. On the basis of FIR (Ex. P-1) lodged by Nathuram (PW-1), an offence under Section 325 was registered against the accused/applicant. After completion of investigation, charge sheet was filed against the accused/applicant herein and two others under Section 325 IPC.
3. On being satisfied with the averments of the parties and evidence on record the trial Court acquitted the two other accused of the charge levelled against them but convicted and sentenced the

accused/applicant herein as mentioned above. The findings recorded by the trial Court have been affirmed by the lower appellate Court convicting the accused/applicant under Section 325 IPC and it is that which is under challenge in this revision.

4. Counsel for the accused/applicant submits that he is not pressing this revision on merits and would confine his argument to the sentence part of the judgment assailed therein. According to him, as the incident had taken place in the year 2000, and that he has already remained in jail for a period of 23 days, no useful purpose would be served in again sending him to jail by unsettling his well settled life, and therefore, the sentence imposed upon him may be reduced to the period already undergone.
5. State counsel however, supports the findings recorded by Court below.
6. Heard counsel for the parties and perused the material on records.
7. Though counsel for the accused/applicant is not inclined to press conviction of the accused/applicant, this Court thinks it appropriate to refer to the evidence of the witnesses to ascertain his guilt or innocence and therefore, it proceeds to do so.
8. Evidence of victim (PW-2) shows that on the date of incident when he was tilling his land in the presence of his wife and son, the accused/applicant herein came there and picked up a dispute with him on account of cutting of trees standing in his field. When the victim told the accused that he had cut the trees standing on his own land, the accused/applicant assaulted him with a wooden piece causing injuries on his head. As a result of injuries suffered by him, the victim fell down and was sent to hospital for medical treatment where stitches were applied on his head and X-ray was taken. Wife of the victim namely Aamoli (PW-3) and Dakour, his son (PW-4) who were also present on the spot at the relevant time have also supported the case of the prosecution stating that on account of some dispute the accused/applicant herein inflicted club injuries on the head of PW-2. Similarly, Dr. R.P. Sharma (PW-1) who medically examined the victim PW-2 has stated that he noticed lacerated wound on the skull of the victim in the size of 4cm x 3cm x 1cm which was caused with some hard and blunt object. This apart, X-ray report Ex. P-2 also goes to show that there was fracture on the right side of the frontal bone and that the injury on

head was dangerous to life in the absence of medical treatment. This fact has also been proved by Dr. A.K. Sahu (PW-8) who has stated in his report Ex. P-8 that there was fracture on the frontal bone of the head of the deceased.

9. Thus, in view of the factual discussion made above in the light of the evidence of the witnesses, this Court is of the opinion that the Court below was fully justified in holding the accused/applicant guilty under Section 325 IPC and being so, the same is hereby maintained.
10. As regards sentence, keeping in view the fact that the incident had taken place about 18 years back and that the applicant has already remained in jail for a period of 23 days, this Court is of the opinion that it would be in the interest of justice to reduce the sentence to the period already undergone by him. Order accordingly.
11. Resultantly, the revision petition is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-

**(Vimla Singh Kapoor)**

**Judge**

Jyotishi/Pawan