

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 504 of 2009

1. Jhargu alias Sheshnarayan, son of Tekram Sahu, aged about 28 years, R/o Muchail, PS Pandariya, at present PS Mungeli, District Bilaspur, CG

--- Applicant

Versus

1. State of Chhattisgarh through Station House Officer, Police Station Pandariya, District Bilaspur, CG

--- Respondent

For Applicant	-	Shri Somkant Verma, Advocate.
For Respondent/State	-	Smt. M. Asha, PL
		Applicant is also present.

Order on Board by Hon'ble Smt. Vimla Singh Kapoor, J.

27.11.2018:

Judgment under challenge in this revision petition is dated 29.09.2009 passed by Additional Sessions Judge (FTC) Mungeli, District Bilaspur in Criminal Appeal No. 05/2008 whereby the findings recorded by Judicial Magistrate First Class, Mungeli convicting the accused/applicant under Section 325 IPC and sentencing him to undergo RI for six months with fine of Rs. 500/-, plus default stipulation, have been affirmed.

2. Facts of the case, in short, are that on 20.05.1998 at about 11 AM when the complainant namely Bhulau (PW-1) and his wife Jhanjhi Bai (PW-2) were busy in arranging the thorny bushes in the field, the present applicant along with others came there and tried to remove the same. This led to abuses by the accused persons and beating by accused Pokhan and the applicant herein where

one of the teeth of the complainant got broken. On intervention by PW-2, she too was caused injuries with club. On the report Ex. P-1 lodged by PW-1 offences under Section 323 and 325 IPC were registered against the accused persons including the applicant herein and after completion of investigation, charge sheet was filed accordingly followed by framing of charge.

3. After examining the material available on record and the evidence of the witnesses, the trial Court convicted and sentenced the accused/applicant u/s 325 but acquitted him of the charge u/s 323 IPC. The findings recorded by the trial Court in relation to the applicant herein have subsequently been confirmed by the lower Appellate Court by the judgment impugned 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 as far as conviction part of the judgment challenged therein is concerned, and would confine his argument to its sentence part only. He submits that as the incident had taken place in the year 1998, that he has remained in jail for one month and four days and that the persons injured in the incident got recovered within a short period, the sentence imposed on him may be reduced to the period already undergone.

5. On the other hand, counsel for the respondent/State supports the judgment impugned as a whole.

6. Heard counsel for the parties and perused the evidence on record.

7. Having heard counsel for the parties and perused the material available on record including the evidence of complainant (PW-1), his wife (PW-2) and the doctor (PW-8), it is apparent that on account of the fist and club blows, one of the teeth of PW-1 was broken which is indicative of the fact that grievous injury was caused to him. Seizure of broken tooth was also made from the spot which has been proved by the witnesses. Medical report Ex. P-8 also shows that on account of the tooth being broken, blood was coming out of the jaws of the complainant. It is thus clear that the applicant voluntarily caused grievous hurt to the complainant and being so the findings recorded by the Courts below convicting the accused/applicant as shown above, are just and proper and do not suffer from any illegality or infirmity warranting interference by this Court. Conviction of the applicant u/s 325 IPC is thus maintained.

8. As regards sentence, keeping in mind the fact that the incident had taken place in the year 1998 thereby leading to passage of 20 long years since thereafter, that the applicant has already remained in jail for one month and four days and that by now he must be under the burden of family responsibilities, this Court thinks it just and proper and in the interest of justice to reduce the same to the period already undergone. Order accordingly.

9. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)
Judge