

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 537 of 2004

- Sadhuraam And Another

---- Petitioner

Versus

- State Of Chhattisgarh

---- Respondent

For Applicant

Mr. LC Dash, Advocate

For Respondent /State

Mr. PK Bhaduri, Government Advocate

S.B.: Hon'ble Mr. Justice Prashant Kumar Mishra

Order On Board

26/3/2018

1. Heard.
2. Both the applicants have suffered conviction under Section 326/34 of IPC and have been sentenced to undergo RI for one year and fine of Rs.50/- each for causing grievous hurt by dangerous weapon to injured Yudhishtir (PW-7).
3. At the time of the incident i.e. about 12:30 p.m., on 4.8.1999, PW-7 Yudhishtir was ploughing the field belonging to the applicants by means of tractor. The applicants reached the spot and having seen that Yudhishtir is ploughing their field, they started beating him and when Yudhishtir fell on the ground, applicant No.2 Sadashiv sat over his chest and applicant No.1

Sadhuram inflicted repeated blows over his right leg near the ankle by means of axe. The prosecution case have been proved by the statements of Yudhishtir (PW-7) and eye witness Vinod Kumar (PW-6). Dr. A.K.S. Ratre (PW-8) has proved the injury report vide Ex.P/4, wherein, he has mentioned that the deceased sustained five injuries, all incised wounds, out of which, one injury was found to be accompanied with fracture, which has been proved after radiological examination.

4. Having heard Mr. LC Dash, learned counsel for the applicant and Mr. PK Bhaduri, learned Government Advocate for the State and having perused the entire record particularly the statements of PW-6 Vinod Kumar, PW-7 Yudhishtir and PW-8 Dr. A.K.S. Ratre, the finding of guilt recorded by the Courts below for convicting the applicants under Section 326 of IPC is unexceptionable.
5. It is an open and shut case for convicting the applicants under Section 326 of IPC. Therefore, there being no perversity in the finding, the conviction is affirmed.
6. At this stage, Mr. Dash would submit that the incident having occurred about 19 years back, the sentence may be reduced to the period already undergone.
7. It is to be noticed that the incident occurred on 4.8.1999 i.e. about 19 years back. The genesis of the incident is dispute concerning claim over the agricultural land. As per the prosecution case itself, injured Yudhishtir was ploughing the agricultural field belonging to the applicants by means of

tractor. Moreover, the prosecution has not placed any material on record that the applicants are habitual offenders.

8. Therefore, considering the time elapsed since commission of offence as also for the reason that the injuries sustained by injured Yudhishtir were not on the vital parts of the body and were on the right leg and the applicants having suffered 11 days of imprisonment during trial and 18 days of imprisonment after the appellate judgment, total 29 days, I am of the view that the present is a fit case where the sentence imposed on the applicants deserves to be reduced to the period already undergone.
9. Accordingly, the revision application is allowed to the extent that while maintaining the conviction under Section 326 of IPC, the substantive jail sentence is reduced to the period already undergone.

Sd/-

Judge

(Prashant Kumar Mishra)

Shyna