

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 250 of 2005

Order reserved on : 04.09.2018

Order passed on : 22.10. 2018

Shushil @ Kheo, S/o. Roopchand, Aged about 30 years, R/o. Laxmipur, Main Road, Ambikapur, Police Station and Tahsil Ambikapur, District Surguja (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Police Station Ambikapur, District Surguja (C.G.)

---- Respondent

For Applicant : Mr. Nishikant Sinha, Advocate
For Respondent : Ms. M. Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Judgment

1. This revision is directed against the judgment dated 20.05.2005 passed by the Additional Sessions Judge (FTC), Ambikapur (Sarguja) in Criminal Appeal No. 20 of 2005, affirming the judgment of conviction and order of sentence dated 06.01.2005 passed by the Chief Judicial Magistrate, Ambikapur, in Criminal Case No. 92/2000, convicting the accused/applicant under sections 452 and 326 IPC and sentencing him to undergo rigorous imprisonment for 6 months and pay fine of Rs. 100/-, u/s

452 and rigorous imprisonment for 1 year and to pay fine of Rs. 200/ u/s. 326 IPC, with default stipulations.

2. Case of the prosecution, in brief, is that on 26.02.1999 when the victim (PW-3) tried to intervene in the scuffle ensuing between the accused persons and one Ramvichar, they inflicted a sword blow on the left palm of the victim. Thereafter, the victim was taken to hospital where he remained admitted for medical treatment. FIR (Ex.P-2) was lodged by son of the victim namely Akhilesh (PW-4) for the offences under Sections 452 and 324/34 of the IPC.

3. Having taken note of the material on record the Trial Court convicted and sentenced the Applicant as mentioned above which subsequently has been affirmed by the lower appellate Court by the judgment impugned. Hence, this revision.

4. Learned Counsel appearing for the Applicant submits that he is not pressing this revision on merit and confining his argument to the sentence part thereof only. According to him, as the incident had taken place in the year 1999 and that he has already remained in jail for a period of six months, no useful purpose would be served in again sending him to jail, and therefore, the sentence imposed upon him may be reduced to the period already undergone by him.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. I have heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. Though there is prayer only in respect of sentence part of the judgment impugned, this Court is required to deal with the conviction part thereof as well on merit.

8. Victim (PW-3) has stated that on the date of incident when he was in the house along with his family, the accused/applicant along with other co-accused came there and they inflicted a sword blow on the left palm and the victim (PW-3) received injuries in his left palm. According to him, the incident was witnessed by Champa Bai (PW-2), Akhilesh Kumar (PW-4) and Pradeep Kumar Gupta (PW-8). Dr. Habib Khan (PW-1) who medically examined the victim and gave his report Ex.P-1, has also supported the case of the prosecution stating that he noticed one incised wound in the left palm of the victim in the size of 10x2x2 cm into muscle deep. Even the radiologist (PW-10) who took X-ray of the victim has stated that there was a fracture in the middle of the left finger. The report given by the radiologist is (Ex.P-7)

9. Thus, in view of the factual discussion made above in the light of the evidence of the witnesses, this Court of the opinion that both the Courts below have been quite justified in holding the accused/applicant guilty under sections 452 and 326 IPC and being so, the same hereby maintained.

10. As regards sentence, keeping in view the fact that the incident had taken place about 19 years back and by now the applicant must be leading a well settled life bearing the burden of his responsibilities, 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.

11. Resultantly, the revision is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh