

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 519 of 2004**

Shyampuri S/o Daupuri Goswami, aged about 26 years, R/o Shahid Veernarayan Nagar, Khursipar, Bhilai, Permanent resident of Tilak Nagar, Petrol Pump ke Samne, Hirri Mines, Bilaspur (C.G.)

----Applicant**Versus**

State of Chhattisgarh through the District Magistrate, Durg (C.G.).

---- Respondent

For Applicant	:	Mr. Arun Kochar, Advocate
For Respondent	:	Mr. Neeraj K. Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****18/06/2018**

1. This revision has been preferred under Section 397 (1) read with 401 of Cr.P.C against the judgment dated 06/09/2004 passed in Criminal Appeal No. 357/20003 by the First Additional Sessions Judge, Durg affirming the conviction of the applicant under Sections 325/34 and 341 of IPC passed in Criminal Case No. 455/2002 by the Judicial Magistrate First Class vide judgment dated 01/08/2003. While affirming the conviction, the First Additional Sessions Judge has sentenced the applicant RI for 5 months with fine of Rs. 200/- and SI for 7 days, respectively with default stipulations.
2. Case of the prosecution, in brief, is that on 15/02/2002 at about 9 PM, when the complainant- Jeetendra Singh going towards Ahiwar after picking the passenger in his jeep then at Ambedkar Chowk, near Nandini, the present applicant Shyampuri along with co-accused

Mahendra Sahu stopped the complainant and abused him. They also beaten the complainant by hands and fists. The complainant sustained injuries on his mouth, left hand and thumb. The report was lodged by the complainant at Police Station, Nandini. The complainant was examined by the doctor and after investigation, a charge-sheet was filed before the Trial Court. The Trial Court vide judgment dated 01/08/2003 has convicted the present applicant under Sections 325/34 and 341 of IPC and sentenced him to undergo RI for 2 years with fine of Rs. 200/- and SI for 20 days, respectively. Against the said judgment, an appeal was preferred before the Appellate Court and the learned Appellate Court vide judgment dated 06/09/2004 has affirmed the conviction of the applicant under the aforementioned Sections, however, the jail sentence was modified as mentioned in para 1 of this order. Hence this revision.

3. Learned Counsel appearing for the applicant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the matter is of the year 2002, the applicant is facing the *lis* since last 16 years and he has not criminal antecedent. It is further submitted that during trial, the applicant has undergone about 1 month 13 days of jail sentence out of total jail sentence of 5 months and after 16 years there will be no fruitful purpose to send him again in jail, therefore, he prays that the jail sentence awarded to the applicant may be reduced to the period already undergone by him.
4. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial

Court is just and proper and requires no interference.

5. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
6. It is not in dispute that the matter relates to the year 2002 and the applicant is facing the */is* since last about 16 years. Moreover, the applicant has undergone about 1 month 13 days of jail sentence out of total jail sentence of 5 months and after 16 years there will not be any fruitful purpose serve to again send the applicant in jail.
7. Considering the above facts and circumstances, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the applicant, the jail sentence awarded to him is reduced to the period already undergone by him, however, the fine imposed upon him is enhanced to Rs.10,000/- under Section 325/34 of IPC. Ordered accordingly. The enhanced amount of fine shall be payable within one month from the date of receipt of a copy of this order. In default of payment, the applicant shall be liable to undergo RI for 1 month. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.
8. Consequently, the revision is partly allowed to the extend indicated above.
9. It is reported that the applicant is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.

10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul