

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 455 of 2005

Order reserved on 11.09.2018

Order pronounced on 28.11.2018

1. Arjun S/o Hulasram Mahar, aged about 32 years, R/o Sonbarsa, Tah. – Kawardha, District – Kabirdham, CG.
2. Bharatlal S/o Hulasram Mahar, aged about 32 years, R/o Sonbarsa, Tah. – Kawardha, District – Kabirdham, CG.
3. Balaram S/o Hulasram Mahar, aged about 32 years, R/o Sonbarsa, Thana – Kawardha, District – Kabirdham, CG.

---- Applicants

Versus

State of Chhattisgarh, through : Collector Kawardha, District – Kabirdham, CG.

---- Respondent

For Applicants	: Shri Ajit Singh, Advocate
For State/ Respondent	: Smt. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V Order

The applicants in this revision have challenged the judgment dated 07.10.2005 passed by Sessions Judge Kabirdham (Kawardha) in Criminal Appeal No. 11/2005 arising out of the judgment dated 29.07.2005 passed by JMFC Kawardha in Criminal Case No. 161/2005 convicting and sentencing the accused/applicants as detailed hereunder:

Applicant	Conviction	Sentences
Applicant No.1	Under Section 294, 506B, 323/34, 325/34 of IPC	Under Section 323 S.I. 3 months and u/s 325 R.I for one year with fine amount 1000/-
Applicants No. 2 and 3	Under Section 323/34, 325/34 of IPC	Under Section 323 S.I. 3 months and u/s 325 R.I for one years with fine of amount 1000/-

2. Facts of the case, in brief, are that on 31.04.2002 when complainant Narayni Bai (PW-1) was returning after taking bath in the river, on the way

one Rajeshwari Mahar stopped her and referring to some previous quarrel between the sons of two, she caught hold of her hair. Thereafter her husband and brothers-in-law (the accused/applicants herein) also came there and assaulted her. When parents and brother of PW-1 came there to save the complainant, accused/applicants assaulted them also causing injuries on their head legs and thighs. It is alleged that accused/applicant Arjun filthily abused PW-1 branding her as prostitute and caused injury on her head and limbs with the help of club. On the basis of report Ex. P-1 lodged by the complainant PW-1 offences under Sections 341, 294, 323, 324, 34, 506B IPC were registered against the accused/applicants leading to filling of charge-sheet after completion of investigation.

3. On being satisfied with the averments of the parties and evidence on record the trial Court convicted and sentenced the accused/applicants as mentioned above. The findings recorded by the trial Court have been affirmed by the lower appellate Court by the Judgment impugned, and it is that which is under challenge in this revision.

4. Learned counsel for the accused/applicants submits that he is not pressing this revision on merits and would confine his argument to the sentence part of the judgment impugned therein. According to him, as the incident had taken place in the year 2002, and that they have already remained in jail for a period of 15 days, no useful purpose would be served in again sending them to jail, and therefore, the sentence imposed upon them may be reduced to the period already undergone.

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

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

7. Though counsel for the accused/applicants is not inclined to press the conviction of the accused/applicants, this Court thinks it appropriate to refer to the evidence of the witnesses to ascertain their guilt or innocence and therefore, it proceeds to do so.

8. From the evidence of PW-1 (the complainant) it emerges that on the date of incident when she was returning from the river after taking bath, the accused/applicants inflicted injury on her hand, head and arm. When her family members came to save her, the accused/applicants inflicted injuries to them also with club. In the incident Chitrang (PW-4) suffered fracture on his hand. Even her parents were assaulted by accused Bala with the help of lathi. Sonmati Bai (PW-2), Ghanaram (PW-3) and Chitrang (PW-4) have also supported the case of prosecution stating that the accused applicants

also caused injuries to them on various parts of their body. PW-3 and PW-4 have even suffered fracture on their hands. Sukhram (PW-6) the witness to seizure of club made under Ex. P-3, P4 and P-5 has also supported the case of prosecution. Johar (PW-8) – another witness to seizure of club made under Ex. P- 3 and P-4 has also supported the case of prosecution. Dr. R.P. Nohare (PW-11) who medically examined injured Ghanaram (PW-3) has stated that he noticed lacerated wounds on his head, right leg and contusions on left thigh, left elbow and back which might have been caused by hard and blunt object. This witness also examined Chitrang (PW-4) and stated that he noticed contusions on his head, left hand, abrasion and contusions on left forearm, contusions on left thigh, back and waist. All the injuries to PW-4 also might have been caused by hard and blunt object, as stated by this witness (PW-11). He also medically examined Sonmati Bai (PW-2) and Narayani Bai (PW-1) and noticed number of contusions and lacerated wound on their bodies.

9. Thus, the evidence clearly indicates that the accused/applicants abused PW-1 and when her relatives came to intervene in the matter, they abused them too and assaulted them with club causing number of club injuries to them including fracture to PW-3 and PW-4 and therefore, the findings of both the courts below convicting them as shown above are based on the evidence available on record. The conviction being just and proper needs no interference by this Court.

10. As regards sentence, keeping in view the fact that the incident had taken place about 16 years back and the applicants have already remained in jail for a period of 15 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 them. However, the sentence of fine imposed by the Court below is enhanced to Rs. 9,000/- from the one imposed by the Court below. The amount payable by each accused would come to Rs. 3000/-. Let the entire fine amount be deposited by the accused/applicants in the trial court within a period of three months from today by adjusting the amount of fine already deposited, if any.

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

Sd/-

(Vimla Singh Kapoor)

Judge