

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 150 of 2004

1. Madanram Yadav son of Nankiram Yadav, aged about 30 years
 2. Anandram Yadav son of Nankiram yadav, aged about 23 years,
 3. Sahdevram son of Guruwaru Sanwra, aged about 28 years
- All R/o village Naharkela, PS Lailunga, District Raigarh, CG

--- Applicants

Versus

State of Chhattisgarh through District Magistrate, Raigarh,
District Raigarh, CG

--- Respondent

For Applicants	-	Shri Vipin Punjabi, Adv.
For Respondent	-	Smt. M. Asha, PL

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

03.12.2018:

By this revision petition the applicant has assailed the judgment dated 20.02.2004 passed by Additional Sessions Judge (FTC), Raigarh in Criminal Appeal No. 13/2003 affirming the judgment dated 14.01.2003 passed by Judicial Magistrate First Class, Gharghoda in Criminal Case No. 29/1994 convicting the accused/applicants under Sections 452 and 394/34 IPC and sentencing each of them to undergo RI for one year with fine of Rs. 100/- on each count, plus default stipulations.

2. Facts of the case in short are that on 31.05.1994 at 12 midnight when complainant Manoharlal (PW-1) was to set out for his patrolling duty, the accused/applicants knocked at the door of his house and when he opened the door under the impression that it must be the watchman,

they gained an entry therein, beat him with hands and fists, tore his uniform and took away Rs. 400/- kept in its pocket. On seeing this, children of PW-1 ran for safety to the house of the neighbours. PW-1 thereafter went to PW-4 Pavitro, Shoukilal (PW-6) and also one Shankar and informed them about the incident. On seeing PW-4, PW-6 and Shankar, the accused/applicants started abusing them also. After registration of report, the investigation progressed, the complainant was sent for medical examination and the *challan* was filed eventually.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted and sentenced the accused/applicants herein as above. The findings recorded by the trial Court have subsequently been affirmed 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/applicants 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 1994 and that the accused/applicants have already remained in jail for two months and four days, the sentence imposed on them 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/victim (PW-1) which has been duly corroborated by Pavitro (PW-4) Lochan (PW-5) and Ram Kumar (PW-12) it is apparent that the accused/applicants manhandled the victim, looted Rs. 400/- kept in the pocket of his shirt and also tore the uniform. The amount of Rs. 400/- (currency notes of 50 denomination) so seized have been confirmed by the complainant to be of his own. This apart, Dr. S. Upadhyaya (PW-3) who medically examined (PW-1) has also stated that during examination, he complained pain on his back and waist vide Ex. P-6. Considering all this, both the Courts below appear to have been fully justified in convicting the accused/applicants as mentioned above and there is no illegality in the same. Their conviction is thus maintained.

8. As regards sentence, keeping in mind the fact that the incident had taken place in the year 1994 thereby leading to passage of 24 long years since thereafter and that the applicants have already remained in jail for two months and four days, 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