

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 899 of 2003**

Ballu S/o Shyamlal Gandharv (Bajgari) aged 20 years, R/o Devman Chal,
Chantidih, Bilaspur, District- Bilaspur (C.G.)

----Appellant**Versus**

State of Chhattisgarh through P.S. Sarkanda, Bilaspur, Distt. Bilaspur (C.G.)

---- Respondent

For Appellant	:	Ms. Mini Banerjeel, Advocate
For Respondent	:	Mr. Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****21/02/2018**

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 04/10/2002 passed in S.T. No. 199/1992 by the Sixth Additional Sessions Judge, Bilaspur convicting and sentencing the appellant under Section 436 of IPC and sentenced to undergo RI for 6 years and to pay fine of Rs. 1000/- with default stipulation.
2. Case of the prosecution, in brief, is that earlier complainant- Suresh Kumar (PW1) was tenant in the house of accused/appellant. Due to a quarrel between complainant- Suresh Kumar and the accused/appellant, the complainant left his house and was residing in the house of one Gandharv. It is alleged that on 18/01/1992 at about 6-7 pm, when the complainant was cooking food in his house, the accused/appellant entered into his house, abused him and by saying that they will burn the house, burned the corner of house beside the roof by match box. Due to

fire, the clothes, mattress, bed-sheets and other material were burned, total cost of which is about Rs. 1,000/-. The matter was reported by the complainant vide Ex.P-1. The case was registered under Section 436 of IPC. During investigation, pieces of clothes were seized from the spot vide seizure memo Ex.P-4. Spot map was prepared. Statement of witnesses under Sections 161 of Cr.P.C. have been recorded. After investigation, a charge-sheet under Section 436 of IPC was filed. To prove the guilt of the appellant, the prosecution has examined as many as 6 witnesses. Statement of the accused/appellant was also recorded under Section 313 of Cr.P.C, in which he denied the circumstance framed against him and pleaded his innocence and false implication. After trial, the trial Court has convicted and sentenced the appellant as mentioned in the first paragraph of this judgment. Hence, this appeal.

3. Learned Counsel appearing for the appellant submits that she does not want to press this appeal on merit and confines his argument to the sentence part only. She further submits that the matter is of the year 1992, there is no criminal antecedent of the appellant and he is facing the */is* since last 26 years. It is further submitted that out of total jail sentence of 6 years, the appellant has already undergone about 1 year and 3 months, therefore, the jail sentence awarded to him 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 require 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 1992 and the appellant is facing the *lis* since last about 26 years. Moreover, he also has no known criminal antecedent and out of total jail sentence, he has already undergone about 1 year and 3 months
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 appellant, the jail sentence awarded to him is reduced to the period already undergone by him.
8. Consequently, the appeal is partly allowed. The conviction imposed upon the appellant under Section 436 of IPC is upheld, but the jail sentence awarded to him is reduced to the period already undergone by him. The fine sentence imposed upon him is also affirmed.
9. It is reported that the appellant/accused 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