

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 469 of 2009

Sukhnandan S/o Biswa Yadav, age about 39 years, R/o Vill.
Ghodari, P.S.Mahasamund, Tahsil & District – Mahasamund, CG.

---- Applicant

Versus

- The State of Chhattisgarh through District Magistrate,
Mahasamund, District Mahasamund, CG.

---- Respondent

For Applicant : Shri Keshav Dewangan, Advocate

For State/Respondent : Smt. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

04 /12/2018

1. In this revision the judgment under challenge is dated 03.09.2009 passed by Sessions Judge Mahasamund in Criminal appeal No. 30/2009. The conviction recorded by the trial Court has been maintained but there is some modification as far as sentenced part is concerned.
2. Facts of the case, in brief, are that on 04.06.2007 when complainant Mahendra (PW-1) was conversing with PW-2 and PW-3 near a liquor shop, the accused/applicant herein came there and started abusing PW-1 branding him as thief of his oxen. The accused/applicant is alleged to have scuffled with PW-1, beaten him with hand and fist and dashed him on the ground, on account of which he sustained some bleeding injuries. After making the report Ex. P-1, PW-1 was medically examined and after completion of investigation charge sheet was filed.

3. Learned Magistrate convicted the accused/applicant under Sections 294 and 325 IPC and sentenced him to pay fine of Rs. 100/- under Section 294 and RI for two years under Section 325 IPC. Learned lower appellate Court in appeal however, maintained the conviction, sentence under Section 294 but reduced it from RI for two years to RI for six months under Section 325 IPC. Hence this revision.
4. Learned counsel for the accused/applicant 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 2007, and that he has already remained in jail for about a month, 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.
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/applicant is not inclined to press the conviction of the accused/applicant, this Court thinks it appropriate to refer to the evidence of the witnesses to ascertain his guilt or innocence and therefore, it proceeds to do so.
8. On perusal of the evidence of complainant (PW-1) which has been duly supported by PW-2 and PW-3 who were present all throughout, it is clear that on the date of incident the accused/applicant abused PW-1, branded him thief and caused two injury to him. Even the doctor (PW-4) who medically examined the victim PW-1 has stated that the cut injury on left ear was grievous in nature and the other one on right shoulder was simple. Thus,

there is sufficient evidence to hold the accused/applicant guilty under Sections 294 and 325 IPC. The Court below has been fully justified in passing the order impugned. Conviction of the accused/applicant is thus maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place about 11 years back and the applicant has already remained in jail for a period of about one month, 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. Order accordingly.

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

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan