

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 476 of 2013**

Manish Rao @ Goldi Kashyap S/o Shri Pandhri Rao Kashyap, aged about 25 years R/o Banspara Ward Dhamtari, Police Station Dhamtari, Civil & Revenue, District Dhamtari (C.G.).

---- Applicant

Versus

State of Chhattisgarh, through the District Magistrate Dhamtari, Police Station Dhamtari, Civil & Revenue District Dhamtari (C.G.)

---- Respondent

For Applicant	:	Mr. D.N. Prajapati, Advocate
For Respondent	:	Mr. Shangharsh Pandey, Dy. Govt. Adv.

Hon'ble Shri Justice Arvind Singh Chandel
Order on Board

01/12/2018

1. This revision has been preferred against the judgment dated 17/05/2013 passed in Criminal Appeal No. 52/2012 by the Additional Sessions Judge, Dhamtari (C.G.), whereby the order of conviction dated 04/04/2012 of the Applicant passed in Criminal Case No. 608/2011 by the Chief Judicial Magistrat, Dhamtari was upheld, however, the Applicant was sentenced to till rising of the Court and he was directed under Section 357 (3) of the Cr.P.C to pay compensation of Rs. 3000/- to the Complainant, with default stipulation.
2. As per prosecution story, on 16/120/2011 at about 11 pm, Complainant Harshad Sahu was standing in front of his house. It is alleged that the Applicant came there and abused him. He also assaulted him by a cricket-stump. The Complainant sustained injuries on his head and

back. The incident was witnessed by Navin Kumar and Vikas Hirani. A report was made by the Complainant. The Complainant was medically examined. Statement of witnesses under Section 161 of the Cr.P.C were recorded. After investigation, a charge-sheet was filed before the Chief Judicial Magistrate, Dhamtari.

3. After trial, the learned Chief Judicial Magistrate vide order dated 04/04/2012 convicted the Applicant under Section 323 of the IPC and sentenced him to undergo RI for 6 months and to pay fine of Rs. 500/- with default stipulation. In the Appeal, the Appellate Court vide impugned judgment dated 17/05/2013 maintained the conviction of the Applicant under Section 323 of the IPC, however, the Applicant was convicted to till rising of the Court and to pay compensation of Rs. 3000/- to the Complainant.
4. Counsel for the Applicant submits that both the Courts below have failed to appreciate that the prosecution has not succeeded to prove its case beyond all reasonable doubt. The Courts belows have failed to appreciate that the ingredients of Section 323 of the IPC are missing in this case. There is material contradiction and omission in the deposition of the prosecution witnesses. He further submits that if it is held that the offence is made out against the Applicant, since he is a Government servant, the conviction will affect his service career and, therefore, he prays that if the judgment of conviction and sentence is affirmed, it may be observed that the same shall not affect his career in government service. Reliance has been placed on **1985 Law Suit (SC) 161 (Rajvir v. State of Haryana)** and **2008 Law Suit (SC) 1069 (State of Madhya Pradesh v. Hazarilal)**.

5. 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.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. In support of its case, the prosecution has examined as many as 8 witnesses. Complainant Harshad Kumar Sahu (PW2) has categorically stated that at the time of incident, when he was standing in front of his house, the Applicant came there and abused him. He also assaulted him by a cricket stump, due to which he sustained injuries on his head. Eye-witness Naveen Sahu (PW1) also supported the statement of the Complainant. Vikas Hirani (PW3) also stated that when he reached the spot, he saw that the Applicant was fleeing from the spot. Another eye-witness Chintamadi Sahu (PW5) also supported the statement of the Complainant.
8. The Complainant was medically examined by Dr. Rakesh Soni (PW8) on 16/10/2011 in the night. His report is Ex.P.6. According to the medical report, there was swelling of 3 cm X 2 cm on the back side of the Complainant and also there was one abrasion on the shoulder of the Applicant. From the medical report also, it is clear that the Complainant sustained injuries.
9. Looking to the above evidence, both the Courts below have rightly convicted the Applicant under Section 323 of the IPC. Thus, the conviction is affirmed. The sentence part also does not require any interference.

10. Since, the Applicant is Government servant, the conviction imposed upon him may affect his career in government service. This is a case of only two simple injuries. Therefore, it is observed that the conviction imposed upon the Applicant under Section 323 of the IPC shall not affect his career in government service.
11. Consequently, the revision is disposed of in the aforesaid terms.
12. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge