

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 2859 of 1998**

1. Vinod Kumar S/o Sukhiram Satnami, aged 18 years,
 2. Vijaykumar S/o Sukhiram, aged 22 years,
 3. Prembai W/o Sukhiram Satnami, aged 50 years.....**deleted**
 4. Jethu S/o Pyarelal Satnami, aged 45 years.....**deleted**
 5. Horilal S/o Jethuram Satnami, aged 25 years,
- All R/o of Village- Kunda, P.S. Palari, District- Raipur (M.P.) (Now C.G.)

----Appellants**Versus**

State of Madhya Pradesh (Now Chhatisgarh)

---- Respondent

For Appellants	:	Mrs. Renu Kochar, Advocate
For Respondent	:	Mr. Neeraj K Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****27/04/2018**

1. During the pendency of this appeal, appellant No. 3, Prembai & appellant No. 4, Jethu have died and as per order dated 25/08/2017, their names have been deleted from the cause title of the appeal.
2. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 23/11/1998 passed in S.T. No. 20/1989 by the IInd Additional Sessions Judge, Baloda-Bazar convicting the accused/appellants under Sections 149, 325/149, 323/149 & 450 of IPC and sentenced them to undergo RI for 2 years, RI for 3 years with fine of Rs. 500/-, RI for 6 months & RI for 2 years with fine of Rs. 100, respectively with default stipulations.

3. Case of the prosecution, in brief, is that on 21/09/1988, complainant-Aswani Kumar and his son, Indal Sahu were present at home. At that time due to land dispute, all the accused persons came with Tangiya and Lathi and assaulted them. The incident was witnessed by Sushila Bai (sister of complainant) and Kotwar- Naindatt. The FIR was lodged by Aswani Kumar vide Ex.P-23. Aswani and his parents were examined by Dr. Lalsah Anchale (PW4). They were also examined by Dr. S.C. Vishnoi (PW8). On the memorandum statement of appellant- Vinod, an Lathi was seized vide Ex.P-8. On the basis of memorandum of accused-Vimal, a Tangiya was seized vide Ex.P-10. Statement of the witnesses under Section 161 of Cr.P.C were recorded. After investigation, a charge-sheet was filed and charges were framed. To guilt the accused/appellants, the prosecution has examined as many as 15 witnesses. Two defence witnesses have been examined. Statement of accused/appellants under Section 313 of Cr.P.C was recorded, wherein they denied all the charges and pleaded their innocence and false implication in the case. After trial, the trial Court has convicted the appellants under the aforementioned sections and sentenced them as mentioned in paragraph two of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the appellants submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the matter is of the year 1988 and the appellants are facing the *lis* since last 30 years. It is further submitted that during trial, the appellants have undergone about 2 months of jail sentence out of total jail and after 30 years there will be no fruitful purpose to send the appellants in jail again, therefore, he prays

that the jail sentence awarded to the appellants may be reduced to the period already undergone by them.

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. It is not in dispute that the matter relates to the year 1988 and the appellants are facing the *lis* since last about 30 years. Moreover, the appellants during trial have undergone about 2 months out of total jail sentence and after 30 years there will not be any fruitful purpose serve to again send the appellants in jail.
8. 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 appellants, the jail sentence awarded to them is reduced to the period already undergone by them and the fine amount under Section 325 and 450 of IPC is enhanced to Rs. 5000/- and Rs. 1000, respectively. Ordered accordingly. The enhanced amount of fine of Rs. 5000/- for the offence under Section 325 of IPC and the enhanced amount of fine of Rs. 1000/- for the offence under Section 450 of IPC shall be payable within three months from the date of receipt of a copy of this order. In default of payment of the aforesaid amount of Rs. 5000/-, the appellants shall be liable to undergo simple imprisonment for 6 months, and in default of payment of the aforesaid amount of Rs. 1000/-, they shall be liable to undergo simple imprisonment for 3 months.

If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.

9. Consequently, the appeal is partly allowed to the extent indicated above.
10. It is reported that the appellants are on bail. Their bail bonds are 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.
11. 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