

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1825 of 2000**

1. Loop Singh S/o Rameshwar singh Lodhi, aged 76 years
 2. Sahgu S/o Govind Gond, aged 68 years,
(.....Both appellants 1 & 2 have died and their appeal has been abated).
 3. Bakhet S/o Dhola Rawat, aged 25 years,
 4. Nahgu S/o Govind Gond, aged 65 years,
(.....Appellant No. 4 has died and his appeal has been abated)
 5. Bhagwat @ Dauwa S/o Sahgu Gond, aged 25 years,
 6. Takhat S/o Dhola Rawat, aged 25 years,
 7. Dwarika S/o Gariba Lodhi, aged 18 years
 8. Brijlal S/o Dhola Rawat, aged 22 years,
 9. Chhavilal S/o Bihari Lodhi, aged 55 years,
(.....Appellant No. 4 has died and his appeal has been abated)
- All R/o Village Usalapur, Police Station, Khamhariya, District- Durg (M.P.)
(Now Chhattisgarh).

-- Appellants**Versus**

State of Madhya Pradesh (Now Chhattisgarh).

---- Respondent

For Appellants	:	Mrs. Renu Kochar, Advocate
For Respondent	:	Mr. Ramakant Pandey, PL

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****31/07/2018**

1. Appellants 1, 2, 4 & 9 have died during the pendency of this appeal and as per order dated 20/04/2018, the appeal filed on their behalf has been abated.
2. This appeal is directed against the judgment dated 13/07/2000 passed

by the Additional Sessions judge, Bemetara in Sessions Trial No. 247/1990 convicting and sentencing the appellants as under:-

<u>Conviction</u>	<u>Sentence</u>
<u>To Appellants No. 1 to 4</u>	
Under Section 148 of the Indian Penal Code	RI for 1 year each.
Under Section 307/149 of the Indian Penal Code	RI for 3 years, fine of Rs. 3000 each, in default, RI for 6 months each.
<u>To Appellants No. 5 to 9</u>	
Under Section 148 of the Indian Penal Code	RI for 1 year each.
Under Section 307/149 of the Indian Penal Code	RI for 5 years, fine of Rs. 500 each, in default, RI for 2 months each.

3. Facts of the case, in brief, are that on 27/07/1989 at about 08:30 pm, the appellants along with died appellants and Munna @ Ramkumar and Ramcharan (both died during the pendency of trial) formulated an unlawful assembly and thereafter they made an assault causing injuries to Girdhar, Nathuram, Poonaram, Mohan and Santosh. On the basis of the report lodged by the complainant, initially a charge-sheet under Sections 147, 148, 323/149 and 325/149 of the IPC was submitted before the trial Court. Later on, on the basis of application received from complainant, the case was commuted to the Court of Sessions Judge. Charges under Sections 147, 148, 307 read with 149 and 323/149 of the IPC were framed by the Sessions Court.
4. After trial, the trial Court vide impugned judgment dated 13/07/2000

has convicted and sentenced the appellants as mentioned in the first paragraph of this judgment. Hence, this appeal.

5. Learned Counsel appearing on behalf of appellants Nos. 3, 5 and 6 to 9 submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. It is further submitted that the matter is of the year 1989 and appellants Nos. 3, 5 and 6 to 9 are facing this */is* since 29 years. During pendency of this appeal four appellants have died. He further submits that the main allegation of assault was put on Loop Singh (Appellant No.1). Dispute was arose between both the parties and there was no intention of murder. He further submits that in total, appellants Nos. 3, 5 and 6 to 9 have undergone about 5 months, therefore, the jail sentence awarded to them may be reduced to the period already undergone by them.
6. 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.
7. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
8. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 5 years, appellants Nos. 3, 5 and 6 to 9 have undergone about 5 months, they are facing this */is* since 1989 and after 29 years no fruitful purpose would be served to again send them in jail, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon them, the jail sentenced awarded to them is reduced to the period

already undergone by them.

9. Consequently, the appeal is partly allowed. The conviction imposed upon appellants Nos. 3, 5 and 6 to 9 is affirmed and the jail sentence awarded to them is reduced to the period already undergone by them. The fine sentence is also affirmed.
10. It is reported that appellants Nos. 3, 5 and 6 to 9 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