

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1084 of 2001**

1. Kartik Ram S/o Charan Satnami, aged about 60 years,
 2. Jagannath S/o Kartik Satnami, aged about 25 years,
 3. Bajrahin Bai W/o Jonuram Satnami, aged about 30 years,
- All R/o Village- Manikpur Police Station- Bodla, Distt. Rajnandgaon, Chhattisgarh.

-- Appellants**Versus**

State of Chhattisgarh.

---- Respondent

For Appellant	:	Mr. U.K.S. Chandel, Advocate
For Respondent	:	Mr. Arvind Shukla, PL

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****26/07/2018**

1. This appeal has been preferred against the judgment dated 31/10/2001 passed by the Special Judge, Rajnandgaon in special case No. 97/1999, convicting the appellants under Section 326/34 of the IPC and sentenced them to undergo RI for 10 years with fine of Rs. 5000/- with default stipulation.
2. As per prosecution story the lands of the complainant and the appellants are adjacent to each other and some dispute over the same was going on. On 05/07/1997, it is alleged that the appellants were ploughing the land. At the relevant time, complainant- Komal along with his brother Monah reached there and asked the appellants not to

plough the land. On this some altercation took place. It was further alleged that appellant- Kartik assaulted with axe and he sustained injuries on his elbow. Appellants- Jagannath and Bajrahin Bai also assaulted to Komal by Danda. The incident was witnessed by Narayan and Santosh. The appellants also assaulted Mohan and Phool Singh and they also sustained some injuries. FIR (Ex.P-1) was lodged by Komal (PW4). All injured i.e. Kamal Singh, Phool Singh and Monah were medically examined by Dr. R.K. Bhuwarya (PW9). Statement of witnesses under Section 161 of Cr.P.C was recorded by the Investigating Officer. After investigation, a charge-sheet under Section 323, 324 and 325 read with 34 of IPC was submitted. The trial Court has framed the charges under Sections 326 alternative 326/34, 323 alternative 323/34 and 324 alternative 324/34 of IPC. Total 10 witnesses have been examined by the prosecution to prove his case. Statements of accused/appellants were also recorded under Section 313 of Cr.P.C in which he denied all the charges and pleaded false implication in the case. One defence witness was examined. After trial, the trial Court has acquitted all the appellants from the charges under Section 324 and 323/34 of IPC and convicted all the appellants under Section 326/34 of IPC sentenced them as mentioned in para 1 of this judgment.

3. 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 dispute arose between both the parties and on the basis of appellant's report, there was one conviction to the complainant party. He further submits that

the incident happened before 20 years ago and during pendency of this appeal, the appellants has undergone about 3 months. Appellant No. 1 is above 90 years of age and Appellant No. 3 is lady, there is no criminal antecedent of the appellants, therefore, the sentence awarded to the appellants may be reduced to the period already undergone by them.

4. Reliance has been placed on **1999 SCC (Cri) 998, Surendra Nath Mohanty & Anr. v. State of Orrisa, 1993 Supp. N(2) SCC 33, Pashora Singh & Anr. v. State of Punjab** and 2000 **Criminal Law Journal, 1018, Dehli High Court, Sat Narain v. The State** .
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. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 10 years, the appellants has undergone about 3 months, there is no previous antecedent of the appellants, Appellant No. 1 is above 90 years of age and Appellant No. 3 is lady, they are facing this *lis* since 20 years and no fruitful purpose would be served to again send them in jail after 20 years, 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 sentenced awarded to them is reduced to the period already undergone by them.

8. Consequently, the revision is partly allowed. The conviction imposed upon the appellants is affirmed and the jail sentence awarded to them is reduced to the period already undergone by them. The fine sentence is also affirmed.
9. It is reported that the appellants/accused 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.
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