

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 241 of 2018**

1. Hulas Sanhara S/o Kaluram Sanhara, aged about 51 years,
 2. Khemraj Sanhara S/o Hulas Sanhara, aged about 26 years,
- Both are R/o Village Bhothali, P.S. Arjuni, District Dhamtari (C.G.).

--- Applicants**Versus**

State of Chhattisgarh, Through District Magistrate, Dhamtari (C.G.).

---- Respondent

For Applicants	:	Mr. R.S. Patel, Advocate
For Respondent	:	Mr. R.K. Jaiswal, PL

Hon'ble Shri Justice Arvind Singh Chandel
Order on Board

06/12/2018

1. This revision has been preferred against the judgment dated 22/09/2017 passed by the Additional Sessions Judge, Dhamtari (C.G.) in Criminal Appeal No. 53/2017, affirming the judgment of conviction and sentence dated 28/06/2017 passed in Criminal Case No. 63/2017 by the Chief Judicial Magistrate, Dhamtari convicting the accused/Applicants under Section 323 of the IPC and sentenced them for till rising of the Court and to pay fine of Rs. 1000/- each.
2. As per prosecution story, on 25/01/2017 Complainant Gyanik Dhruw (PW1) was going towards his working place on his motor-cycle. On the way, he went to Samudayik Bhawan, where Applicant No. 1 was consuming liquor with other villagers. The Complainant asked

clerk(munshi) to contact with contractor, which he denied and Applicant no. 1 used filthy language with the Complainant. It is alleged that Applicant No.2 who is son of Applicant No.1 came there and both assaulted the Complainant by hands and fists. The Complainant sustained injuries near his ears and eyes. The incident was witnessed by Kamal Sahu. The matter was reported by Complainant Gyanik Dhruw. On the basis of said report, a charge-sheet was filed before the Trial Court. Charges were framed under Section 294, 323 and 506 Part-II of the IPC. After trial, the learned Chief Judicial Magistrate acquitted the Applicants from the charges framed under Sections 294 and 506 Part-II of the IPC and convicted them under Section 323 of the IPC and sentenced them as mentioned in paragraph one of this order, which was also affirmed by the Appellate Court also. Hence, this revision.

3. Learned counsel appearing on behalf of the Applicants submits that both the Courts below have failed to appreciate the evidence in its proper perspective. There are material contradictions and omissions in the statement of witnesses. Eye-witness namely Kamal Sahu has not supported the case of the prosecution. He further submits that the Applicants have no known criminal antecedent. He further submits that Applicant No. 2 is aged about 26 years, there is bright future in front of him, and due to this conviction, his career may be suffered. Therefore, he prays that considering the entire circumstances while affirming the conviction, it may be directed that the sentence imposed upon Applicant No.2 shall not affect his career.

4. Learned Counsel appearing for the State opposes the prayer made by the counsel for the Applicants and supported the impugned judgment.
5. I have heard Learned Counsel appearing for the parties and perused the record.
6. To prove the guilt of the Applicants, the prosecution has examined as many as 6 witnesses. Complainant Gyanik Dhruw (PW1) has categorically stated that at the time of incident, both the Applicants assaulted him by hands and fists, and due to which he sustained injuries on his cheek near eyes and ears. Kamal Sahu (PW2) though has not supported the case of the prosecution, he admitted the fact that there were quarrel took place in the Samudaik Bhawan. From the statement of Complainant and above witness, it is clear that a quarrel took place between the Applicants and the Complainant and the Complainant was assaulted.
7. The Complainant was also medically examined by Dr. M.N. Naseem (PW4). His report is Ex.P-12. As per medical examination report of the Complainant, it is clear that he sustained two abrasions near nose and eyes. There was also swelling over his lips. Thus, from the medical report also, it is clear that the Complainant sustained injuries on his body.
8. From the above evidence, it appears that both the Courts below have rightly convicted the Applicants under Section 323 of the IPC and the same requires no interference.
9. So far as, the contention of counsel for the Applicants regarding career

of Applicant No.2, it is observed that the conviction imposed upon him under Section 323 of the IPC shall not affect his career in service.

10. With the above observations, the revision is disposed of.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul