

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 475 of 2004**

1. Rajendra S/o Chintaram Kalar, aged about 25 years
 2. Ravindra S/o Chintaram Kalar, aged about 22 years
 3. Ashok S/o Nohar Ganda, aged about 25 years
 4. Naresh S/o Nohar Ganda, aged about 22 years
- All R/o Salhae, Police Station- Bhanupratappur, District- North Bastar, Kanker (C.G.)

----Applicants**Versus**

State of Chhattisgarh through District Magistrate, Kanker, District- North Bastar Kanker (C.G.).

---- Respondent

For Applicant	:	Mr. Shivendu Pandayal, Advocate
For Respondent	:	Mr. N. K. Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****21/02/2018**

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 14/09/2004 passed in Criminal Appeal No. 148/2000 by the Third Additional Sessions Judge (FTC), North Bastar, Kanker, arising out of judgment dated 06/09/2000 passed by the Judicial Magistrate First Class, Bhanjupratappur in Criminal Case No. 353/1998 convicting and sentencing the accused/applicants under Sections as under:-

<u>Conviction</u>	<u>Sentence</u>
Under Section 458 of the IPC	RI for 1 year and fine of Rs. 500 with default stipulation.

Under Section 324/34 of IPC	RI for 1 year
Under Section 323/34 of IPC	RI for 6 months

2. Case of the prosecution, in brief, is that on 29/07/1998 at about 9:00 pm, complainant- Fheruram was going to bed by closing the doors of his house. It is alleged that the accused/applicants came, knocked and opened the door by foot and entered inside the house. All the accused/applicants abused and assaulted the complainant- Fheruram and his son Shobharam by Tangia, Chain and Danda. The incident was witnessed by Champalal. On the next day, the complainant reported the matter at police station- Bhanupratappur and offence under Sections 458, 294, 506-B and 324/34 of IPC was registered. After investigation, a charge-sheet was filed. Charges under Sections 458, 324 & 506-B were framed against the applicants. After trial, the applicants have been convicted and sentenced as mentioned in paragraph 1 of this order. The learned Sessions Judge also affirmed the above conviction and sentence of the Trial Court. Hence this revision.
3. Learned Counsel appearing for the applicants submits that he does not press this revision on merit and confines his argument to the sentence part only. He further submits that the matter is of the year 1998 and there is no criminal antecedent of the applicants and they are facing the *lis* since 1998. It is further submitted that a compromise has already been taken place between the parties and application in this regard was also filed, but since offence under Section 458 of IPC is not compoundable, therefore, the same was withdrawn. He further submits that the

applicants have already undergone about 14 days, therefore, the jail sentence awarded to them may be reduced to the period already undergone by them.

4. Per contra, learned Counsel appearing for the State supported the impugned judgment
5. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
6. It is not in dispute that the matter relates to the year 1998 and the applicants are facing the *lis* since last about 19 years. From the record also, it is clear that a compromise has already been taken place between the parties, but since the offence under Section 458 of IPC was not compoundable, the application for compromise was withdrawn. Moreover, the applicants have no known criminal antecedent and they have already undergone for about 14 days.
7. 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 applicants, the jail sentenced awarded to them is reduced to the period already undergone by them and the fine imposed upon them is enhanced to Rs. 5,000/- each. Ordered accordingly. The enhanced amount of fine shall be payable within one month from the date of receipt of a copy of this order. In default of payment, the applicants shall be liable to undergo simple imprisonment for 6-6 months each. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.

8. Consequently, the revision is partly allowed to the extent indicated above.
9. It is reported that the applicants 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 Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge