

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1066 of 2001**

1. Ishwar Ram S/o Gangaram, aged about 27 years R/o Shritoli, Police Station- Kunkuri, Distt.- Jashpur.
2. Khageshwar @ Dhandhu Yadav, aged about 17 years, R/o Village-Lotapani, Police Station- Kunkuri, Distt. Jashpur.

--- Appellants**Versus**

The State of Chhattisgarh, through, Police Station Kunkuri (C.G.).

---- Respondent

For Appellant	:	Mr. Sameer Behar, Advocate
For Respondent	:	Mr. N.K. Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****02/08/2018**

1. This appeal has been preferred against the judgment dated 09/08/2001 passed by the IIIrd Additional Sessions Judge (FTC), Jashpur in S.T. No. 219/2000, convicting the accused/appellant under Section 404 of the IPC and sentenced him to undergo RI for 2 years.
2. Brief facts of the case, is that deceased- Vihari was found missing from 22/12/1999, therefore, a report about his missing was made to the police station on 24/12/1999. After 27 days, his body was found at Boora Park on 17/01/2000. Merg intimation was recorded by father of deceased namely- Narayan. Inquest was done and postmortem of the body of the deceased was also done by Dr. Vipin Kumar (PW9). His report is Ex.P-10. Spot map was also prepared. During the course of

investigation, it was found that both the appellants and acquitted accused- Leela Yadav have murdered the deceased and one HMT watch and bicycle of the deceased were taken by both the appellants. After investigation, a charge-sheet under Section 302 and 201/34 of IPC was submitted before the trial Court against the appellants and co-accused Leela Yadav. Charges were framed under Sections 302 read with 34 and 201 read with 34 of the IPC.

3. To prove the guilt of the accused/appellant, the prosecution examined as many as 12 witnesses. No defence witness was examined. Statements of accused/Appellants were recorded under Section 313 Cr.P.C, wherein they denied all the charges, pleaded thier innocence and false implication.
4. After trial, the trial Court has acquitted Leela Yadav from all the charges and convicted and sentenced the accused/appellants as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. 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. It is further submitted that the incident is of the year 2000, the appellants are facing this *lis* since 18 years, out of total jail sentence of two years, Appellant No. 1 has undergone about 1 year 13 days and Appellant has undergone about 9 months, they have no criminal antecedent, therefore, the jail sentence awarded to the appellants 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 2 years, Appellant No. 1 has undergone about 1 year 13 days and Appellant has undergone about 9 months and they are facing this *lis* since 2000, 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.
9. Consequently, the appeal 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.
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