

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 97 of 2008

- Basant S/o. Fool Chand Satnami, Aged about 22 years, R/o. Nawapara, Jaraundha, PS Takhatpur, District Bilaspur CG

---- Applicant

Versus

- State Of Chhattisgarh, Through PS Takhatpur Bilaspur CG

---- Respondent

For Applicant	: Smt. Ranjani Jaiswal, Advocate
For Respondent/State	: Shri Sanjeev Pandey, GA

Hon'ble Smt. Justice Rajani Dubey

Order On Board

13/12/2018

The present revision arises out of the impugned order and judgment dated 28.01.2008 passed by the Special Judge (Atrocities), Bilaspur in Cr. Appeal No. 01/2008 whereby the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate first Class, Bilaspur vide its judgment dated 28.12.07 in Cr. Case No. 699/2005 for the offence under Section 325/34 IPC and sentenced them to undergo RI for one year with fine of Rs. 100/- plus default stipulation.

2. Brief facts of the case are that on the date of incident i.e. 14.04.2002, at about 7.00 p.m. when complainant Dharam Satnmai was returning to his house after purchasing Beedi from the shop at

Navapara, on the way applicant Basant Satnami called him and asked as to whether he will allow him to drink water from the tap. At this, complainant replied that it is government tap and nobody can stop him from drinking water. Thereafter, applicant started abusing the complainant and threatened him for life, assaulted with *lathi* as a result of which his left hand wrist, shoulder and legs got injured. Father of the applicant also came there and he assaulted the complainant with *lathi* on his thigh. Dr. Kiran Nahrail (PW-6) examined Dharam and advised for x-ray, thereafter referred him to the radiologist. It was opined by the doctor that they were simple in nature. Investigation was done and charges were framed against the accused/applicant under Section 325/34 IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 9 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled against them and pleaded their innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 28.12.2007 learned Magistrate has convicted the accused/applicants for the offence under Section 325/34 IPC and has sentenced to undergo RI for two years with fine of Rs. 100/- and to pay fine of Rs. 500/- respectively, with default stipulations. This order was appealed by the applicants and in the appeal, learned appellate Court has confirmed the conviction but the sentence awarded to the applicant has been altered to one year instead of two years. As there was no evidence against co-accused Foolchand, he has been acquitted of the charges levelled against him. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing the revision as far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to her, the incident is said to have taken place in the year 2002 and thereby more than 16 years have rolled by since then, the applicant has already remained in jail for about 1 month 20 days, no useful purpose would be served in again sending him to jail, therefore it would be in the interest of justice if the sentence imposed on him is reduced to the period already undergone by him. To this, counsel for the State has no serious objection.

7. In view of above, the fact that the incident had taken place in the year 2002 and further that the applicant has already remained in jail for about 1 month 20 days, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of 1 month 20 days, his sentence is reduced to the period already undergone by him.

8. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
Judge