

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 205 of 2008

Order reserved on : 29.09.2018

Order passed on : 30.10.2018

Jawahar Lal Shrivastava S/o. Ratan Lal Shrivastava, Aged about 39 years, Occupation Driver, R/o. Station Nayapara, Mahasamund District Mahasamund (C.G.)

----- Applicant

Versus

State of Chhattisgarh, Through Police Station Mahasamund District Mahasamund (Chhattisgarh)

----- Respondent

For the Applicant : Mr. Ajay Kumar Chandra, Advocate
For the Respondent : Mr. Majid Ali, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Judgment

1. This revision petition has been filed against the judgment dated 10.03.2008 passed by the Additional Session Judge, Mahasamund in Criminal Appeal No. 01 of 2006, whereby the learned Additional Session Judge has altered the judgment of conviction and order of sentence dated 21.01.2004 passed by the Chief Judicial Magistrate, Mahasamund in Criminal Case No. 1681 of 2002. Learned Magistrate had convicted the accused/application under Sections 294, 325 and 506(B) but on appeal learned lower appellate Court has acquitted the

applicant under section 506 (B) and altered his conviction under Sections 323 IPC from that of 325 IPC and sentencing him to fine of Rs. 200/- under Section 294 IPC, rigorous imprisonment for one year and to pay fine of Rs. 800/- under Section 323 IPC, plus default stipulations.

2. Case of the prosecution, in brief, is that complainant Souda Khatun (PW-1) lodged the FIR (Ex.P-7) alleging in it that on 07.07.2002, his brother Mohammad Sajid went to the house of the applicant for recovering the money then the applicant chased his brother upto his shop. On the way, complainant Souda Khatun (PW-1) asked the applicant why he was chasing his brother then the applicant used obscene words and threatened her to kill and gave a club blow on her head and wrist as a result of which the blood was oozing from her head and she sustained injuries in her hand thereafter the applicant ran away from the spot. The complainant (PW-1) was sent to hospital from treatment.

3. Having taken note of the material on record the Trial Court convicted and sentenced the applicant as mentioned above which subsequently has been affirmed by the lower appellate Court by the judgment impugned. Hence, this revision.

4. Learned Counsel appearing for the applicant submits that he is not pressing this revision on merit and confining his argument to the sentence part thereof only. According to him, as the incident had taken place in the year 2002 and that he has

already remained in jail for a period of ten days, no useful purpose would be served in again sending him to jail, and therefore, the sentence imposed upon him may be reduced to the period already undergone by him.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. I have heard learned counsel for the parties, perused the judgment impugned and the evidence available on record carefully.

7. Though there is prayer only in respect of sentence part of the judgment impugned, this Court is required to deal with the conviction part thereof as well on merit.

8. On hearing counsel for the parties and perusal of the material available on record including the evidence of victim (PW-1) and the doctor examining her i.e. (PW-3), it emerges that on the date of incident when the complainant asked the accused/applicant for making payment for the purchase made by him on credit, he (the applicant) chased him and on the way when sister of the complainant (the victim herein) asked him as to why he was chasing her brother, he abused her and caused injuries on her head with club. The medical evidence says that the victim had suffered one wound on right side of the head and further that she was also complaining pain on her wrist.

9. Thus, in view of the factual discussion made above in the light of the evidence of the witnesses, this Court of the opinion

that both the Courts below have been quite justified in holding the accused/applicant guilty under sections 294 and 323 IPC and being so, the same hereby maintained.

10. As regards sentence, keeping in view the fact that the incident had taken place about 16 years back and by now the applicant must be leading a well settled life bearing the burden of his responsibilities, this Court is of the opinion that it would be in the interest of justice to reduce the sentence to the period already undergone by him.

11. Resultantly, the revision is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Jyotishi/Santosh