

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 131 of 2010

Reserved on 10-9-2018

Delivered on 01-10-2018

1. Ravindra Singh S/o Sukhsagar Singh Kshatriya aged about 28m years, R/o Bhaiso Police Station Pamgarh, District Janjgir Champa, CG.
2. Kavindra Singh S/o Sukhsagar Singh Kshatriya aged about 30 years, R/o Bhaiso Police Station Pamgarh, District Janjgir Champa, CG.
3. Yogendra Singh S/o Sukhsagar Singh Kshatriya aged about 24 years, R/o Bhaiso Police Station Pamgarh, District Janjgir Champa At Present R/o Badami Baag, Miltri Camp Sringer (J&K).

---- Petitioners

Versus

1. Bhaiji @ Suraj Pratap Singh s/o. Harshwardhan Singh, aged about 25 years
2. Bugul @ Meghendra S/o Yashwant Singh aged about 37 years.
3. Sikku @ Jivednra Pratap Singh S/o Bhagirathi Singh, aged about 26 yearsw
All R/o Siud, Police Station Nawagarh, District Janjgir Champa (CG).
4. Dipanshu @ Dipesh S/o Mahendra Kesharwani aged about 20 years, R/o Nawagarh, Polcie Station Nawagarh District Janjgir Champa (CG).
5. State of C.G. Through District Magistrate Janjgir Champa (CG).

---- Respondent

For petitioners : None.

For Respondent/State : Mr. Suryakant Mishra Panel Lawyer

(SB: Hon'ble Mr. Justice Ram Prasanna Sharma)

(CAV Order)

1. This revision is preferred under Section 397/401 of the Code of Criminal Procedure, 1973 against the judgment of conviction and

order of sentence dated 4-1-2010 passed by the 2nd Additional Sessions Judge, (FTC), Janjgir in Session Trial No. 175 of 2009 wherein the said Court while convicting the respondents No.1 to 3 namely Bugul, Sikku and Bhaji @ Suraj Pratap Singh for commission of offence under Sections 324 read with Section 34 of the IPC and sentenced them to undergo RI for one year and fine of Rs.100/- and convicted under Section 323 read with Section 34 of the IPC and sentenced them to undergo RI for six months each with default stipulations, has acquitted the respondent No.4 Dipanshu @ Dipesh from the charges framed against him.

2. As per prosecution case, on 22-2-2008 Ravindra Singh had gone to village Jagmahant to attend the marriage of one Yashpal Singh along with Kavindra Singh and Yogendra Singh. Ravindra Singh, Kavindra Singh and Yogendra Singh were standing near the road at about 11.00 pm in the night and at the same time some persons of the marriage party started pushing them to which they objected and thereafter appellant Bugul started to utter filthy abuses and at the same time other appellants assaulted all the three persons with club, belt and fanta and Yogendra Singh sustained grievous hurt and became unconscious and he was immediately shifted to District Hospital, Janjgir for medical treatment. The matter was reported and

investigated and after completion of trial, the trial Court convicted and sentenced the appellants as mentioned above.

3. The grounds raised in this revision by the revisioners are as under:

- i) The culprits have chosen vital area of the body of the injured with intent to cause murder of Yogendra Singh, therefore, the trial Court ought to have convicted them for commission of offence under Section 307 of the IPC.
- ii) The volume of punishment as imposed by the trial Court is very meagre and short, therefore, sentence should be modified .

4. As against the aforesaid submissions, State counsel submits that the finding arrived at by the trial Court is based on proper marshalling of evidence and the same is not liable to be interfered with.

5. I have heard learned counsel for the State and perused the judgment impugned and record of the trial court.

6. In the present case the trial Court has acquitted the non-revisioners No 1 to 3 for charges under Section 307 of the IPC.

As per Section 401 (3) of Cr.P.C., this court powers of revision, nothing in this section shall be deemed to authorise the High Court to convert the finding of acquittal into one of conviction.

7. Looking to the baring provision, acquittal under Section 307 of IPC cannot be converted into conviction by this court. The trial Court has convicted the non-revisinoers No. 1 to 3 for commission of offence under Sections 324 and 323 read with Section 34 of IPC and sentenced them accordingly. Looking to the finding of the trial Court, it cannot be inferred that the trial court has ignored the relevant material placed on record or the judgment of the trial Court is based on irrelevant or extraneous matter. It cannot be held that the finding of the trial Court is perverse which warrants any interference by this court, therefore, the order of the trial Court is not liable to be modified in the garb of revisional jurisdiction.
8. Accordingly, the revision is liable to be and is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)
Judge

Raju_