

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 254 of 2011

1. Jugal Kishore S/o. Bigan, Aged about 26 years,
2. Bhauwa @ Raghav Prasad, S/o. Punnu, Aged about 40 year
3. Bhikham S/o. Ghuruwa, aged about 30 years
4. Devi @ Dev Prasad, S/o. Karmu Mar, aged about 32 years

All R/o. Village Tangarmahari, P.S. Balrampur, District Sarguja (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through Station House Officer, Balrampur,
District Sarguja (C.G.)

---- Respondent

For Applicant : Mr. A.K. Prasad, Advocate.
For Respondent : Mr. Gary Mukhopadhyay, G.A.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

05.12.2018

By the judgment under challenge passed on 11.02.2011 by Additional Sessions Judge (FTC) Ramanujganj Sarguja, in Criminal Appeal No. 111 of 2008, the findings recorded by the learned Judicial Magistrate First Class, Ramanujganj, have been modified.

2. Facts of the case, in short, are that on 16.10.2001 when the complainant was ploughing his land, the accused/applicants herein came over there carrying club and *gandasha* with them, started abusing and caused injuries to him and his family

members. On the basis of report FIR (Ex.P-1) lodged by Santosh (PW-2) and after medical examination of the injured and after completion of investigation the charge sheet was filed against the accused/applicants.

3. Learned Magistrate having perused the material before it convicted the accused/applicants Jugal Kishore, Bhauwa @ Raghav Prasad and Bhikham under Sections 325/34 and accused/ applicant Devi @ Devi Prashad under Section 323 IPC with imposition of sentence of RI for 6 months under Section 325 and RI for 3 months under Section 323 IPC plus varying amount of fine. However, the jail sentence has been reduced by the Appellate Court to RI for 7 days to all the accused/applicants with varying amount of fine. Hence, this revision.

4. Counsel for the applicant submits that the Courts below have committed an error in convicting and sentencing the accused/applicants as mentioned above though the evidence led by the prosecution was lacking and therefore, the same may be set aside.

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

6. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. From the evidence of witness Radheshyam (PW-8) and the seizure witnesses (PW-5) and (PW-6) and also the evidence of

doctor (PW-7) under ExP-12 to 15 and doctor (PW-9) under (Ex.P-17) who noticed laceration on the forearm of Shibunath and fracture on his right ulna and right fibula, this Court is of the opinion that the conviction recorded by both the Courts below as described above is strictly on the basis of evidence on record and there is nothing worth interference with the same. Conviction is thus maintained.

8. As regards sentence, the accused/applicants appear to have completed the entire sentence imposed upon them by the lower Appellate Court and therefore, this point too does not require any deliberation by this Court. Being so, the revision is hereby dismissed.

9. However, looking to the peculiarity of the fact involved, this Court feels it necessary to observe that the conviction of applicant Jugal Kishore shall not affect his service carrier.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Jyotishi/Santosh