

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 505 of 2006

Order reserved on 24.09.2018

Order pronounced on 03.12.2018

1. Birbal son of Janglu Sahu, aged about 40 years
2. Thakur Ram son of Baishakhu Kanwar, aged about 45 years
3. Chaitu Ram son of Punit Ram Sahu, aged about 45 years
4. Budhwari (deceased)

All R/o Village Bhimpur, Tahsil/PS Doundilohara, District Durg,
CG

--- Applicants

Versus

1. State of Chhattisgarh through District Magistrate, Durg, CG
2. Mahesh Sinha son of Dular Singh Sinha, R/o Bhimpur,
Tahsil/PS Doundilohara, District Durg, CG

--- Respondents

For Applicants	-	Shri Pallav Mishra, Advocate.
For Respondent No.1	-	Smt. M. Asha, PL

Hon'ble Smt. Vimla Singh Kapoor, J.

CAV Order

By this revision petition the applicants have assailed the judgment dated 24.02.2006 passed by Additional Sessions Judge, Balod, District Durg in Criminal Appeal No. 209/2004 modifying the judgment dated 20.05.2004 passed by Judicial Magistrate First Class, Balod in Criminal Case No. 547/2003. Conviction of the accused/applicants recorded by learned Magistrate under Sections 447 and 147/149 has been affirmed by the lower Appellate Court

but the sentence of RI for one month with fine of Rs. 200/- u/s 447 and RI for six months with fine of Rs. 200/- u/s 147/149 imposed by learned Magistrate has been modified by the lower Appellate Court to the extent of fine of Rs. 500/- and 1000/- respectively for each offence, plus default stipulations.

2. Facts of the case in short are that on 19.06.2002 all the accused/applicants destroyed the crops standing in the field of complainant/respondent No.2 herein and also damaged the barbed wire fencing erected to protect the crop from the stray animals. Since the police did not take any action against the culprits on the report lodged by the complainant (PW-1), they again came there on 20.06.2002 and covered the well existing in his field by dumping the debris and also destroyed the hay kept there. Complaint further says that when complainant tried to stop the accused/applicants from creating nuisance, they used to abuse and threaten him of being beaten. On account of the act of the accused/applicants, the complainant is alleged to have suffered the total loss amounting to Rs. 60,000/-. After receiving the complaint and recording the statements of the witnesses, learned Magistrate took cognizance of the matter and registered the offences against the accused/applicants under Sections 447, 427, 147/149 IPC.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicants under Sections 447 and 147/149 IPC and imposed the sentence as described above. Other accused persons were however acquitted by learned Magistrate. The finding recorded by the trial Court convicting the accused/applicants have

subsequently been confirmed by the lower Appellate Court by the judgment impugned but the sentence so imposed has been modified as indicated above, and it is that which is under challenge in this revision.

4. Counsel for the accused/applicants submits that the Court below has fallen in error of law in convicting the accused/applicants under Sections 447 and 147/149 IPC ignoring the fact that none of the witnesses has categorically supported the case of the prosecution stating that they committed criminal trespass in the field of PW-1.

5. On the other hand, counsel for the respondent/State supports the judgment impugned as a whole.

6. Heard counsel for the parties and perused the evidence on record.

7. Having heard counsel for the parties and perused the material available on record including the evidence of PW-1 which has been duly corroborated by PW-2 and PW-3 it becomes apparent that on the date of incident the accused/applicants came there carrying agricultural implements and damaged the vegetable crop standing thereon. Evidence also suggests that the accused/applicants also damaged the barbed wire fencing and covered up the well situate in the field of PW-1. Even on being stopped, they did not listen to their words and went on damaging the property by entering his field. Other witnesses have also supported the case of the prosecution.

8. In view of the aforesaid, this Court does not find any illegality in the order under challenge convicting and sentencing the accused/applicants under Section 447 and 147/149 IPC. It is hereby maintained by dismissing the revision petition.

Sd/-

(Vimla Singh Kapoor)
Judge

Jyotishi