

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 333 of 2014**

Bafati Mohammad S/o Gulam Mohammad, aged about 79 years R/o Pathan Mohalla, Baloda, Police Station- Baloda, Civil and Revenue District- Janjgir-Champa (C.G.).

--- Applicant

Versus

1. The State of Chhattisgarh, through the Station House Officer, Police Station- Baloda, Civil and Revenue District- Janjgir-Champa (C.G.).
2. Kadir @ Kaddu, aged about 39 years S/o Bafati Mohammad, R/o Ward No. 3, Baloda, Police Station- Baloda, Civil and Revenue District- Janjgir-Champa (C.G.).

---- Respondents

For Applicant	:	Mr. N.K. Chatterjee, Advocate
For Respondent No.1	:	Mr. U.K.S. Chandel, PL
For Respondent No.2	:	Mr. Afroz Khan, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

06/10/2018

1. This revision has been preferred by the victim/complainant against the judgment dated 20/02/2014 passed in Criminal Appeal No. 63/2013 by the Additional Sessions Judge, (FTC), Janjgir.
2. Vide judgment dated 22/03/2013 passed in Criminal Case No. 438/2011, the learned JMFC, Akaltara has convicted respondent No.2 under Section 325 of the IPC and sentenced him RI for 2 years and fine of Rs. 100/-. In an appeal preferred against the said order, the learned Sessions Judge vide impugned order dated 20/02/2014 convicted respondent No.2 but altered the sentenced part and ordered to pay fine of Rs. 1200/- with default stipulation. Hence, this revision has been preferred.
3. Learned counsel for the applicant/victim submits that the impugned

judgment dated 20/02/2014 is bad in law, perverse, erroneous and contrary to the evidence. He further submits that from the state of Bafati Mohammad (PW1), Rajjaque Bee (PW2) (wife of Bafati) it had been proved that complainant sustained injuries on being assaulted by respondent No.2. He further submits that from the statement of Dr. Pramod Mahant (PW8) and MLC report (Ex.P-5), it is clear that victim/complainant sustained grievous injuries. Therefore, looking to the above facts and circumstances the conversion of sentence of respondent no. 2 by the learned Appellate Court is not proper.

4. Counsel for respondent No.2 submits that the incident is of the year 2011. Respondent No. 2 is son of the complainant, therefore, looking to the circumstances, the sentenced as reduced by the learned Appellate Court is just and proper.
5. I have heard learned counsel for the parties.
6. From perusal of the record it is clear that there is sufficient evidence against respondent No.2 on the basis of which, offence under Section 325 of the IPC has been proved. With regard to the sentence, the learned JMFC had sentenced respondent No. 2 to undergo RI for 2 years and fine of Rs. 100/-, but while confirming the conviction, the learned Appellate Court reduced the sentenced to pay Rs. 1200/-.
7. Considering the facts and circumstances of the case, the reduction in sentence is not proper and the learned Appellate Court has taken a very lenient view.
8. Since, the incident is of the year 2011, the victim respondent No. 2 are Farther and son and no fruitful purpose would be served to again sent respondent No. 2 in jail after 7 years. Therefore, I am of the view that the

ends of justice would be met if, the applicant is convicted till rising of the Court and to pay fine of Rs. 12000/-.

9. In the result, this revision is partly allowed.
10. The order dated 20/02/2014 passed by the Appellate Court is set-aside. Respondent No. 2 is convicted and sentenced to TRS (till rising of the Court) with a fine of Rs. 12000/-. The amount of fine shall be payable within one month from the date of receipt of a copy of this order. In default of payment, respondent No.2 shall be liable to undergo SI for 6 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.
11. It is reported that respondent No.2 is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
12. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge