

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 707 of 2015**

Santosh Ekka S/o Binujgara Ekka, aged about 22 years R/o Village Hathidhoda Kiriya, Police Chowki Rairumakhurd, Police Station Dharamjaigarh, District Raigarh (C.G.).

----Appellant**Versus**

State of Chhattisgarh through Station Hosue Officer, Police Station Dharamjaigarh, District Raigarh (C.G.).

---- Respondent

For Appellant	:	Mr. Krishna Tandon, Advocate on behalf of Mr. Basant Dewangan, Advocate
For Respondent	:	Mrs. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****02/09/2019**

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 18/03/2015 passed in Sessions Case No. 138/2014 by the Additional Sessions Judge, Fast Track Court, Raigarh (C.G.) convicting the Appellant under Section 436 of the Indian Penal Code and sentenced him to undergo RI for 10 years and to pay fine of Rs. 50,000/- with default stipulation.
2. As per prosecution story, on 30/04/2014 at about 4:00 pm, due to some previous dispute the Appellant slapped Complainant Ram Prashad (PW3) and threatened him to fire his house. Thereafter, the Complainant returned to his house. After having food, the Complainant saw that his house was burning. The matter was reported by him vide Ex.P-5 immediate after the incident. The Police official registered the crime.

Statement of witnesses under Section 161 of the Cr.P.C were recorded. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges under Section 436 of the IPC. As many as 5 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C was recorded wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that out of total jail sentence of 10 years, the Appellant is in custody since 01/05/2014 and completed 5 years and 3 months of jail sentence, he is facing the *lis* since 2014 and he has no criminal antecedent, therefore, he prays that the sentence awarded to the Appellant may be undergone.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances, particularly that out of total jail sentence of 10 years, the Appellant is in jail since 01/05/2014 and there is no criminal antecedent of the Appellant, I am of the view that

the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentence awarded to him is reduced to the period already undergone by him

8. Consequently, the appeal is partly allowed. The conviction imposed upon the Appellant under the aforementioned Section is upheld, however, the jail sentence awarded to him is reduced to the period already undergone by him. The fine sentence is affirmed.
9. It is reported that the Appellant is in jail. He be released forthwith, if not required in any other case.
10. 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