

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 172 of 2005

1. Girjashanker Pandey, S/o. Shri S.K. Pandey, Aged 54 years,
 2. Ashok Kumar Mishra, S/o. Yugal Kishore Mishra, aged 43 years,
 3. M.P. Yadav S/o. R.N. Yadav, Aged about 45 years,
- All resident of Plot No. 2/3, Risali Maitri Nagar, Bhilai, Tahsil and District Durg (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through District Magistrate Durg (C.G.)

---- Respondent

For Applicant : Mr. Vivek Tripathi, Advocate
For Respondent : Mr. I. Lakra, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

31.01.2019

This revision is directed against the judgment dated 21.03.2005 passed by the Additional Sessions Judge Durg, in Criminal Appeal No. 384 of 2004, modifying the judgment of conviction and order of sentence dated 13.12.2004 passed by the Judicial Magistrate First Class, Durg in Criminal Case No. 915/2002, convicting and sentencing the accused/applicants under Sections 448 and 427 IPC and sentencing them to undergo till rising of the court and to pay fine of Rs. 1000/- in both the sections with default.

2. Facts of the case, in short, are that complainant (PW-1) Arjun Yadav made a written complaint (Ex.P-1) in police Station Newai, on the basis of which FIR (Ex.P-7) was registered against the applicants wherein it is alleged that on 25.07.1992 at about 12.50 PM, the applicants along with 5 to 6 other co-accused persons came there and forcibly entered into the office of the complainant (PW-1) where they started abusing him in the name of mother and sister and threatened him with dire consequences and assaulted him with hands and fits. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Sections 448 and 427 IPC. The said order of conviction was confirmed in appeal by the Sessions Court and the sentence was reduced till rising of the court to that of SI for one month and enhanced the fine amount Rs. 1000/- to that of Rs. 100/-.

4. Counsel for the accused/applicants submits that both the Courts below have fallen in a serious error in convicting the accused/applicants under Sections 448 and 427 IPC and that the findings so recorded are contrary to the evidence led by the prosecution. He further submits that as the prosecution could not prove its case beyond reasonable doubt, the judgment impugned is liable to be set aside.

5. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that the findings recorded by the both the Courts below convicting and sentencing the accused/applicants as shown above, are strictly in accordance with law and there is no infirmity in the same.

6. I have heard the learned counsel for the parties and perused the record.

7. Thus, from the evidence of the complainant (PW-1) and (PW-3) it is apparent on the date of incident the accused/applicants picket up quarrel with the complainant (PW-1) by entering his office and committed *marpit* with him and destroyed the documents. Case of the prosecution is further established from the evidence of PW-4 who proved his report under Ex.P-6. Being so, this Court of the opinion that both the Courts below have been quite justified in holding the accused/applicants guilty under Sections 448 and 427 IPC and therefore, the same is hereby maintained.

8. Accordingly, the revision is dismissed.

Sd/-
(Vimla Singh Kapoor)
JUDGE