

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 557 of 2006**

1. Shyam Ratan S/o Jethu Ram Satnami, aged about 23 years
 2. Gajanan, S/o Ramkhilawan Satnami, aged about 21 years,
 3. Jaleshwar @ Jalesh S/o Lekharam Kurmi, aged about 18 years,
- All are R/o Village Dhobi Patti, Tahasil Kunda, District Kabirdham (C.G.)

---- Appellants**Versus**

State of Chhattisgarh

---- Respondent

For Appellants	:	Mr. U.K.S. Chandel, Advocate
For Respondent	:	Ms. Smita Ghai, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****13/11/2019**

1. This appeal has been preferred against the judgment dated 17/07/2006 passed in Special Case No. 10/2006 by the Special Judge, Kabirdham (C.G.), whereby the Appellants have been convicted under Sections 323 & 325/34 of the IPC and sentenced to undergo RI for 1 month with fine of Rs. 500/- and RI for 1 month with fine of Rs. 500/-, respectively, with default stipulations.
2. Facts of the case are that on 14/11/2005 at about 8:00 pm, the Complainant was in his house. At that time, Lekhram came there and asked as to why he had beaten his son. Thereafter, Lekhram went away from his house and after sometime came with all the Appellants.

They started abusing in filthy language to the Complainant. They assaulted him by shoes and sleeper. When the wife and brother of the Complainant tried to rescue him, they were also assaulted by the Appellants. The incident was witnessed by Mani, Tulsi and Ramkhilawan. The matter was reported and on that basis, offence has been registered. On 14/11/2005, the Appellants had also lodged a report against the Complaint and on the basis of that report, the case was registered against the Complainant. After completion of investigation in both the cases, charge-sheets were filed. Since both the cases were counter cases, therefore, they were tried by Special Judge, Kabirdham. In the present case, as many as 13 witnesses were examined. No defence witness has been examined. Statement of the Appellants under Section 313 of the Cr.P.C were recorded wherein they have pleaded their innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellants submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. No grievous injury was sustained by the Complainant. There was a dispute took place between both the parties and the Complainant was the aggressor. The Appellants have no criminal antecedent and they are facing the *lis* since 2005, therefore, he prays that the jail sentence awarded to the Appellants may be reduced to the period already undergone by them.

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 of the case, particularly considering that there was a dispute between the parties and the Appellants are facing the *lis* since 2005 and there is no criminal antecedent against them, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail sentenced awarded to them is reduced to the period already undergone by him and the fine sentence imposed under Sections 323 & 324/34 of the IPC is enhanced to Rs. 1000/- & 2000/- against each of the Appellants. Ordered accordingly. The enhanced amount of fine shall be payable within 1 month from the date of receipt of a copy of this order. In default of payment, the Appellants shall be liable to undergo RI for 1 month and 2 months, respectively. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.
8. Consequently, the appeal is partly allowed to the extent indicated above.
9. It is reported that the Appellants/accused are on bail. Their bail bonds are 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.

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

Rahul