

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 655 of 2002**

1. Rajesh S/o Shri Mahadeo Yadav, aged about 20 years,
 2. Mahadeo Yadav S/o Shri Ram Prasad Yadav, aged about 55 years,
- The above named Appellants are agriculturist and R/o Village Katai Para, Kewra, Police Station Pratappur, Distt. Surguja (C.G.).

---- Appellants**Versus**

State of Chhattisgarh through the Police Station Pratappur, District Surguja (C.G.)

---- Respondent

For Appellants	:	Mr. Dashrath Prajapati, Advocate
For Respondent	:	Ms. Shriya Mishra, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**28/11/2019**

1. This appeal has been preferred against the judgment dated 08/05/2002 passed in Sessions Trial No. 400/2000 by the Additional Sessions Judge, Surajpur (C.G.), whereby Appellant Rajesh has been convicted under Section 307 of the IPC and Appellant Mahadeo has been convicted under Section 307/34 of the IPC and both have been sentenced to undergo RI for 5 years with fine of Rs. 1000/- and RI for 5 years with fine of Rs. 1000/-, respectively, with default stipulations.
2. Facts of the case are that on 12/05/2000 at about 10:00 pm, the Appellants and injured Ramlal were taking liquor. At that time, some

dispute took place and Appellant Rajesh assaulted the Injured by a Balua on his head with an intention to kill him. It is also alleged that Appellant Mahadeo also assisted Appellant Rajesh. On 23/05/2000, an FIR was lodged. 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. As many as 10 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. He further submits that only single blow was caused to the Injured. All (the Appellants and the Injured) were taking liquor and due to a sudden dispute, they quarreled with each other, therefore, there was no intention of the Appellants to kill him. The Appellants have already undergone about 6 months 6 days, they have no criminal antecedent and they are facing the *lis* since 2000, 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 the Appellants have already undergone about 6 months 6 days out of total jail sentence of 5 years, they are facing the *lis* since 2000 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 Appellant Rajesh under Sections 307 of the IPC is enhanced to Rs. 25000/- & the fine sentence imposed upon the Appellant Mahadeo under Section 307/34 of the IPC is enhanced to Rs. 25000/-. Ordered accordingly. The enhanced amount of fine shall be payable within 2 months 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 year each, 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