

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 475 of 2011

1. Sukhochain Verma S/o. Shiv Kumar Verma, Aged about 62 years,
2. Chandra Kumar Verma, S/o. Sukhochain Verma, Aged about 26 years,

Both resident of village Mohgaon, Police Station and Tahsil Newra Tilda, District Raipur (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through Police Station Tilda Newra, District Raipur (C.G.)

---- Respondent

For Applicant : Mr. A.P. Sharma, Advocate
For Respondent : Mr. Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

29.04.2019

By the judgment under challenge passed on 17.08.2011 by Additional Sessions Judge Bhatapara District Raipur, in Criminal Appeal No. 49/2010, modifying the judgment of conviction and order of sentence dated 26.10.2010 passed by the Judicial Magistrate First Class, Tilda, in Criminal Case No. 136/2010, convicting and sentencing the accused/applicants as under:-

Applicant No.1	
Conviction	Sentence
325 IPC	SI for 1 month and to pay fine of Rs. 2000/-

Applicant No.2	
325/34 IPC	SI for 1 month to pay fine of Rs. 2000/-
	Default stipulations.

2. On 11.08.2010 FIR (Ex.P-1) lodged by complainant Tugan Lal Verma in Police Station Newra, wherein it is alleged that he went to see his field where his sister-in-law Kumari Bai, was working. He enquired to her why she destroyed the boundary of his field, then his sister-in-law replied to him that first you destroyed the boundary of her field. Thereafter, the complainant returned to his home. At about 8.00-9.00, when he was sitting outside of his house, at that time the accused/applicants armed with lathi and danda came there and committed marpit with him and the complainant received injuries on his head, left hand elbow and waist. The incident seen by PW-3 and PW-2. After the incident the complainant was sent for medical examination. After completion of investigation, charge sheet was filed against them under Section 294,323,506 read with section 34 IPC and charge was framed accordingly.

2. Counsel for the applicants/accused do not assail the conviction part of the judgment impugned and his only request is that looking to the incident being quite old and also considering the fact that they have remained under detention of 07 days, the jail sentence imposed on them may be reduced to the period already undergone and thereby protect their well settled family life from being up-rooted at this stage.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. Heard the State counsel and perused the evidence on record.

6. On hearing both sides and on perusal of the entire materials, I find that the prosecution has well proved the case on facts. PW-1 is the person who sustained injuries in the alleged incident. His evidence is definite that on a trivial dispute the applicants opened an assault on the complainant causing injuries with lathi, and in the said assault his ulna bone was fractured. PW-2 and PW-3 who witnessed the incident also gave definite evidence proving the alleged assault made by the accused/applicants. Their evidence is also that PW-1 was assaulted by the accused/applicants, and in the said incident ulna bone of the complainant was fractured. The medical evidence given by PW-6 under Ex.P-8 advised for x-ray and from the x-ray report under Ex.P-8 which shows that ulna bone of the complainant was fractured and the Police officers who registered the crime and investigated the matter, this Court is of the opinion that the conviction recorded by both the Courts below as described above is strictly on the basis of evidence on record and there is nothing worth interference with the same. Conviction is thus maintained.

7. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 09 years ago and the applicants have already remained in jail for a period of 07 days and deposited fine amount imposed on them, in my opinion, no useful purpose is going to be served in again

sending them to jail. Accordingly, his sentence is reduced to the period already undergone by them.

8. With the above, the revision stands allowed in part

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh