

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 733 of 2008

Pukhraj Sahu, S/o Gajadhar Sahu, aged about 34 years, R/o Village Pulgaon, P.S. Pulgaon, Tehsil and District Durg (C.G.)

---Applicant

Versus

State of Chhattisgarh, through Station Incharge, Police Station Pulgaon, District Durg (C.G.)

--- Respondent

For Applicant : Shri Suresh Kumar Verma, Advocate

For State/Respondent : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

18/03/2019

In the FIR (Ex.P-1) lodged by victim Bhagchand (PW-2) it is alleged that on 25.02.2004 when he asked the accused/applicant as to who had snapped his electricity connection, he took it otherwise and asked the complainant as to on what basis he was suspecting him. On noticing this, father of the accused/applicant who was also present nearby, gave a push to the father of the victim as a result of which he fell down. The complainant thereafter rushed to intervene in the matter and while doing so the accused/applicant tooth bit on his elbow and ran away. On the report so lodged, offences under Sections 294, 506 and 324 IPC were registered against the accused/applicant and after completion of investigation challan was filed under the said sections.

2. Having taken note of the material collected by the prosecution learned trial Court by its judgment dated 31.08.2007 passed in Criminal Case No.272/2006 though acquitted the accused of the charge under Sections 294 and 506 yet he has held him guilty under Section 324 IPC and sentenced him to undergo SI for six months with fine of Rs.100/-. Findings recorded by learned Magistrate have also been affirmed by the

lower Appellate Court vide judgment dated 06.11.2008 passed in Criminal Appeal No.100/2007 and it is that which is under challenge in this revision.

3. According to counsel for the accused/applicant, he at present, is not concerned with the conviction part of the judgment under challenge in this revision petition and his sole request would be to reduction of the sentence of the accused/applicant to the period already undergone keeping in mind the fact that the incident had taken place in the year 2004 and the accused/applicant had already been in detention for about 8 days. State counsel however supports the judgment impugned in its entirety.

4. From the statement of PW-1 it is apparent that he had seen the accused/applicant assaulting the victim (PW-2) with club which resulted in bleeding from his hand, though according to the victim himself he received the tooth bite injury on his elbow. This way, there is slight deviation in his statement if seen along the evidence of victim but the assault has been clearly admitted by this witness. He has also admitted that the altercation and scuffle was the outcome of the electricity connection of the victim being snapped. PW-2 has also stated that when his father went to the accused/applicant and asked as to how the electricity connection got disconnected, he started abusing and assaulting him. According to him, when he also went to intervene in the matter accused/applicant bit his hand also. The statement of the doctor who medically examined the victim (PW-2) also goes to show that he noticed injuries on his right arm which could be caused by tooth bite vide report (Ex. P-3). The report (Ex. P-4) regarding medical examination of father of PW-2 also reflects swelling on his hip which could be caused by some hard object.

5. Having viewed the factual aspect of the matter in the light of the evidence of the witnesses referred to above, this Court does not see any illegality or infirmity in the judgment impugned convicting the accused/

applicant under Section 324 IPC and, therefore, his conviction is hereby maintained.

6. As far as sentence part of the judgment impugned is concerned, taking into consideration the fact that the incident had taken place about 15 years back and the accused/applicant has remained in jail for about 8 days, no useful purpose, according to the considered opinion of this Court, would be served in again dispatching him to jail and thereby putting his well settled family life at stake. Accordingly, this Court is inclined to reduce the sentence imposed on the accused/applicant to the period already undergone by enhancing the amount of fine to Rs.500/- from that of Rs.100/- as was imposed by both the Courts below. Order accordingly. It is made clear that the fine imposed by this Court has to be deposited by the accused/applicant in the trial Court within a period of 3 months from the date of receipt of copy of this order, or else this order would not be available to him.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/ajay