

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 564 of 2009

- Diwakar Singh S/o Rammanik Singh, Aged about 28 years, Caste Kanwar Occup.Agriculturist R/o Vill. Parsapali, Ps Darima, Tah. Ambikapur, Surguja

---- Applicant

Versus

- State Of Chhattisgarh, Through PS Darima, District Sarguja (CG)

---- Respondent

For Applicant	: Shri A.N.Pandey, Advocate
For Respondent /State	: Shri Anurag Verma, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

06/09/2019

This revision petition is directed against the impugned judgment dated 18.11.2009 passed by the Sessions Judge Ambikapur district Sarguja in Cr. A. No. 74/2009 whereby the conviction of the applicant under Section 325 IPC and sentencing him to undergo RI for 1 year with fine of Rs. 500/-, passed by the Judicial Magistrate First Class, Ambikapur vide order dated 31.07.2009 in Cr. Case No. 58/09, has been confirmed.

2. Prosecution case in brief is that on 27.06.05, when the complainant/victim was returning home from his field, which was purchased by his father in the name of his wife, the applicant came and started abusing and assaulting him as a result of which he sustained injuries. Report was lodged by the complainant. After

investigation, charge sheet was filed under Sections 341,294,506-B and 325 IPC and accordingly, charges were framed.

3. In order to prove the guilt of the accused, prosecution has examined as many as 7 witnesses. Statement of the accused was also recorded under Section 313 Cr.P.C. in which he denied the charges levelled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties vide impugned judgment and order dated 31.07.2009, learned trial court has convicted the accused/applicant for the offence under Section 325 IPC and has sentenced to undergo RI for one year with fine of Rs. 500/-. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicant. Hence, the present revision.

2. Heard counsel for the parties and perused the material on record including the impugned judgment.

3. Counsel for the applicant submits that he is not pressing the revision as far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2005 and thereby more than 14 years have rolled by since then, he is aged about 43 years, the applicant has already remained in jail for about 33 days, no useful purpose would be served in again sending him to jail, therefore it would be in the interest of justice if the sentence imposed on him is reduced to the period already undergone by him. To this, counsel for the State has no serious objection.

3. In view of above, the fact that the incident had taken place in the year 2005 and further that the applicant has already remained in jail for about 33 days, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of 33 days i.e. more than one month, his sentence is reduced to the period already undergone by him.

4. Revision thus partly succeeds.

Sd/-

(Rajani Dubey)
Judge