

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 428 of 2004

1. Ganga Ram S/o Jeet Ram Gond, aged about 46 years, R/o Village Junwani, P.S. Bagbahra, Tahsil and District Mahasamund(C.G.)
2. Babloo S/o Hari Ram Naik, aged About 30 years R/o Village Sunsuniya (CG) ----- **Petitioners**

Versus

The State Of Chhattisgarh, through the District Magistrate, Mahasamund (C.G.) --- **Respondent**

For Applicants	: Smt. Indira Tripathi, Advocate
For State/Respondent	: Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

25/02/2019

FIR (Ex.P-1) shows that on 16.10.1992 when victim Hemlal (PW-1) was getting back after attending the Court proceedings with Budhan Singh (PW-9), the accused/applicants developed some verbal feud on account of liquor in furtherance of which the applicants dealt club blows to him making him unconscious. After medical examination and completion of investigation from all possible angles the challan was filed against them under Section 325/34 IPC followed by framing of charge accordingly.

2. Learned JMFC vide order dated 07.10.2003 convicted the accused/applicants under Section 325/34 IPC and sentenced each of them to undergo RI for one year with fine of Rs.2,000/-. However, in appeal, the jail sentence was reduced to RI for 6 months but the fine amount was kept undisturbed. Hence this revision.

3. Counsel for the accused/applicants submits that she does not wish to assail the conviction part of the judgment impugned and her sole prayer is to reduce the jail sentence imposed on the

accused/applicants to the period already undergone, which in this case comes to 7 days or so, keeping in mind the efflux of time from the date of incident and the family liabilities the accused/applicants might have landed in. State counsel however supports the judgment impugned as a whole.

4. Having considered the evidence on record including the medical evidence, it becomes crystal clear that accused/applicants caused number of club injuries to the victim including breakage of four teeth. PW-9 who was in the company of the victim at the time of incident has fully supported the case of the prosecution describing the manner in which the incident took place and the injuries were inflicted to the victim. Doctor (PW-3) has opined vide Ex.P-3 abrasion on the middle of head, missing of incisor teeth, swelling on elbow and other like injuries on various parts of his body. Dental surgeon (PW-10) has also noticed three frontal teeth in healing stage vide Ex.P-5. Prosecution has thus proved its case that it is the accused/applicants who caused injuries described in Ex.P-3 and Ex.P-5 to the victim and thus committed the offence under Section 325/34 IPC. Conviction part of the judgment impugned, therefore, does not appear to suffer from any illegality or infirmity and is maintained as such.

5. As regards sentence, keeping in mind the fact that incident had taken place in the year 1992 leading to efflux of considerable long period since then and that the accused/applicants have already remained in jail for a period of 7 days, this Court thinks it in the interest of justice not to unsettle the already settled life of the accused/applicants by sending them to jail at this stage. Thus the jail sentence so imposed is reduced to the period already undergone keeping the sentence of fine as it is.

6. Revision thus allowed in part with the observations and modification in the judgment impugned as indicated above.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/ajay