

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 586 of 2011**

- 1) Sadhuraam S/o Ujamaan, aged about 23 years,
 - 2) Bhagatu S/o Bogi, Aged about 26 years,
- Both are R/o Village Baghanpal, Bhursapara P.S. Lohandiguda, District Bastar (C.G.).

---- Appellants**Versus**

State of Chhattigarh Through Police Station Lohandiguda, District Bastar (C.G.).

---- Respondent

For Appellants	:	Mr. Pravin Kumar Tulsiyan, Advocate
For Respondent	:	Ms. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****30/09/2019**

1. This appeal has been preferred against the judgment dated 25/07/2011 passed in Sessions Trial No. 117/2010 by the First Additional Sessions Judge, Bastar at Jagdalpur (C.G.), whereby the Appellants have been convicted under Section 324 of the IPC and sentenced to undergo RI for 3 years and to pay fine of Rs. 500/- with default stipulation.
2. Facts of the case are that on 10/08/2007 at about 7:00 pm, Complainant Sukhman (PW8) was taking food with Bhagat Ram in his house. It is alleged the Appellants and acquitted accused Ulman came there and called Sukhman. Thereafter, the Appellants assaulted him

by knives, due to that he sustained injuries on his neck. FIR (Ex.P-1) has been lodged by Bhagat Ram. On the basis of said, offence has been registered. During course of investigation, on the basis of memorandum statement of Appellants, one knife has been seized from Appellant Sadhuraam vide Ex.P-7 and one knife has been seized from Appellant Bhagatu vide Ex.P-8. Statement of witnesses have been recorded under Section 161 of the Cr.P.C. After investigation, a charge-sheet has been filed under Section 307/34 of the IPC. Trial Court framed the charges. As many as 9 prosecution witnesses have been examined. No defence witness has been examined. State 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 acquitted co-accused Ulman from the charge framed under Section 307 of the IPC. The Appellants were also acquitted from the charge framed under Section 307 of the IPC, however, they were convicted and sentenced 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 the Appellants have undergone about 1 years 2 months out of total jail sentence of 3 years, they have no criminal antecedent and they are facing the *lis* since 2010, 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 out of total jail sentence of 3 years, the Appellants have undergone about 1 year 2 months, they are facing the */is* since 2010 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 them and the fine sentence imposed under Section 324 of the IPC is enhanced to Rs. 10,000/- against each of the Appellants. 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 6 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.
8. The fine sentence imposed under Section 324 of the IPC shall be given as compensation to the Injured Sukhman in light of Section 357 (1) of the Cr.P.C.
9. Consequently, the appeal is partly allowed to the extent indicated above.
10. 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.

11. 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