

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 724 of 2008

Jiwanlal S/o Sonura Sahu, aged about 43 years, Gram Kukradih,
Thana Tumgaon Tahsil, Block and District Mahasamund (CG)

---- Applicant

Versus

State of Chhattisgarh through Police Station Tumgaon, District
Mahasamund (C.G.)

--- Respondent

For Applicant	:	Shri Raghvendra Pradhan and Shri Sudhir Sahu, Advocates
For State/Respondent	:	Shri Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

01/04/2019

Case of the prosecution is that on 12.06.2007 when the accused/applicant who being the Sarpanch was carrying out the construction work of the road started dismantling the podium of Toshnialal (PW-1), which was objected to by him and his mother Girja Bai (PW-6). On that, the accused/applicant started abusing and manhandling Girja Bai (PW-6) and also made her fall down on the ground in the process. On the basis of report (Ex.P-1) offences under Sections 294 and 323 IPC were registered against the accused/applicant. After medical examination and completion of investigation the charge sheet was filed against him under sections 294, 323, 448 and 427 IPC. However, the Court below framed the charge under Sections 294 and 323 (on two counts) and 427 IPC. Learned trial Court vide judgment dated 22.08.2008 acquitted the accused/applicant of the charges under Sections 448, 427 and 294 IPC. It also acquitted him of the charge under Section 323 IPC for causing injuries to PW-1 but convicted him under the said section for causing injuries to PW-6. The finding of conviction recorded by the trial Court has been affirmed in appeal also but the sentence has been reduced to RI for

one month from that of 3 months, plus default stipulation. Hence, this revision.

2. Counsel for the accused/applicant submits that the findings recorded by both the Courts below are not based on proper appreciation of the evidence of the witnesses and, therefore, they are liable to be set aside. State counsel however supports the judgment impugned.

3 Evidence of PW-1 and PW-6 clearly goes to show that when complainant objected to the act of the accused/applicant in dismantling the podium situate near his house, the accused/applicant abused and caused injuries to PW-6. Doctor (PW-5) who medically examined the victim (PW-6) has also noticed bruises on her forehead though simple in nature. In this view of the matter the conviction of the accused/applicant under Section 323 appears to be fully justified and no interference is necessary therewith. Conviction is thus maintained.

4. As regards sentence, considering the fact that the incident had taken place in the year 2007 involving the passage of about 12 years therefrom and further that as the accused/applicant has already remained in jail for 5 days, this Court is of the opinion that no useful purpose is going to be served by sending him to jail at this stage. Accordingly, the sentence imposed on the accused/applicant is reduced to the period already undergone.

5. Revision is thus allowed in part.

**Sd/-
(Vimla Singh Kapoor)**

Judge