

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 360 of 2008

Dular Dubey S/o. Bharat Dubey, Aged about 30 years, R/o. Village Jhal Khamhariya, Police Station and District Mahasamund (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through District Magistrate Mahasamund , District Mahasamund (C.G.)

---- Respondent

For Applicant : Mrs. Indira Tripathi, Advocate

For Respondent : Mr. Raghvendra Verma, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

25.04.2019

The case of the prosecution in brief, is that on 07.09.2004, the accused/applicant came to the house of the complainant and threatened him of being killed on account of the fact that he was involved in a false liquor case at his instance. On the basis of report, FIR (Ex.P-1) was registered against the applicant for the offence u/s. 452, 294, 506-B IPC. After completion of investigation, charge sheet was filed against the applicant and charge was framed accordingly.

2. By the judgment dated 01.03.2007 learned trial Court convicted the accused/applicant under Section 448 IPC and sentenced him to undergo RI for three months and to pay fine of

Rs. 200 with default stipulation, which on appeal has been affirmed by the judgment impugned. Hence, this revision.

3. Counsel for the applicant/accused does not assail the conviction part of the judgment impugned and his only request is that looking to the incident being quite old and also considering the fact that he has remained under detention of 01 day, the jail sentence imposed on him may be reduced to the period already undergone and thereby protect their well settled family life from being up-rooted at this stage.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. Heard the State counsel and perused the evidence on record.

6. Having considered the material available on record and also keeping in mind the fact that the evidence of PW-1 gets full corroboration from the evidence of PW-2 to the fact that on 07.09.2004, the applicant has entered in the house of the complainant and threatened him of being killed and attributing to his act of involving him in false liquor case. PW-3 and PW-4 are stated to have seen the applicant while coming out of the house of the applicant in the night after committing the offence. Being so, this Court of the opinion that both the Courts below have been quite justified in holding the accused/applicant guilty under Section 448 IPC and therefore, the same is hereby maintained.

7. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 15 years ago and the applicant has already remained in jail for a

period of 01 day and deposited fine amount imposed on him, in my opinion, no useful purpose is going to be served in again sending him to jail. Accordingly, his sentence is reduced to the period already undergone by him. However, the sentence of fine under section 448 IPC is enhanced from Rs. 200/- to Rs. 1000/-. Let this amount be deposited in the Court below within a period of 4 months from today or else they may not derive the benefit of this order.

8. With the above, the revision stands allowed in part

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh