

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 521 of 2010

Khristofar, S/o Budhram, Aged about 39 years, R/o. Village – Khairbar,
Amartoli, P.S. Ambikapur, District : Surguja, C.G.

---- Applicant

Versus

State of Chhattisgarh, Through P.S. Ambikapur, District – Surguja, C.G.

---- Respondent

For Applicant	:	Shri Jitendra Shrivastava, Adv.
For Respondent/State	:	Shri Anand Verma, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

03.05.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 23.09.2010 passed by the learned 4th Additional Sessions Judge, (FTC), Ambikapur, District – Surguja, C.G. in Cr. Appeal No. 25/2010, whereby the learned appellate Court below while maintaining the conviction of the applicant modified the sentence as awarded by the learned Judicial Magistrate First Class, District – Mahasamund, vide its judgment dated 30.01.2010 in Cr. Case No. 504/2009 for the offence punishable under Section 452 and sentenced him to undergo RI for one year and to pay fine of Rs.500/- and under Section 325 of the IPC and sentenced him to undergo RI for one year and to pay fine of Rs.500/-, with default stipulations.

2. Brief facts of the case are that on 08.07.1998, at about 05.00 p.m., the applicant and one other co-accused Boniphas entered into

the house of the complainant(PW-3) and assaulted her by *lathi*, due to which she sustained injuries on her leg and got fracture in her hand. Thereafter, the complainant lodged the report against the accused persons. After completion of investigation, charge-sheet was filed and charges were framed against the accused/applicant under Sections 452, 325 and 323/34 of the IPC by the trial Court.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 06 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr. P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide judgment of conviction and order of sentence dated 30.01.2010, learned Magistrate has convicted the accused/applicant under Section 452 and sentenced him to undergo RI for two year and to pay fine of Rs.500/- and under Section 325 of the IPC and sentenced him to undergo RI for two year and to pay fine of Rs.500/-. On appeal, the conviction has been maintained but the sentence awarded under Section 452 of the IPC, has been reduced to one year and to pay fine of Rs.500/-, with default stipulation. Hence, the present revision.

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

6. Counsel for the applicant submits that he is not pressing this 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 1998 and thereby about 21 years have rolled by since then, he is aged

about 60 years, the applicant has already remained in jail for about more than one month and no useful purpose would be served in again sending him to jail. Therefore, it would be appropriate in the interest of justice if the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses including Dr. Ghanshyam Singh (PW-1), Ignusiya (PW-3), Richina (PW-4), Vishnudas (PW-5) and Dr. M.K. Jain (PW-6) established the involvement of the accused/applicant in the crime in question. This Court does not see any illegality in the findings recorded by both the Court below as regards conviction of the applicant under Sections 452 and 325 of the IPC being so it is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 1998 and further that the applicant has already remained in jail for about more than one month, no useful purpose would be served in again sending him to jail.

10. In view of the above, the revision is partly allowed. While maintaining the conviction of the applicant, his jail sentence is reduced to the period already undergone by him. The applicant is reported to be on bail. His bail bond shall stand discharge.

Sd/-
(Rajani Dubey)
Judge