

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 116 of 2003

1. Munnalal, S/o Johan Kumar, aged about 20 years,
2. Amar Singh, S/o Chamar Singh Kamar, aged about 20 years,

Both are resident of Village – Joratarai, Police Station Mahasamund,
Tahsil and District - Mahasamund, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh, Through P.S. Mahasamund, Tahsil and District – Mahasamund, Chhattisgarh

---- Respondent

For Applicants	:	Ms. Itu Rani Mukherjee, Adv.
For Respondent/State	:	Shri I. Lakra, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

29.07.2019

1. The present revision arises out of the judgment of conviction and order of sentence dated 18.02.2003 passed by the Learned Second Additional Sessions Judge, Mahasamund, in Cr. Appeal No. 183/2002, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicants as awarded by the learned Chief Judicial Magistrate, Mahasamund, vide its judgment dated 11.07.2002 in Cr. Case No. 66/2002 for the offence under Section 326/34 of the IPC and sentenced them to undergo RI for three years and to pay fine of Rs.200/-, to each, with default stipulation.

2. Brief facts of the case are that on the date of incident i.e.

17.10.1997, complainant Kapil was coming to his home from another village, at that time the applicants intervened him and assaulted him by arrow and stone. Due to which, he has sustained injuries in his body. Thereafter, the applicants ran away from the spot. The FIR was registered by the complainant against the unknown persons. During investigation the applicants were identified by the complainant. After filing of charge-sheet, charges were framed against the accused/applicants under Section 326/34 of the IPC.

3. So as to prove the guilt of the accused/applicants, the prosecution has examined 08 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 11.07.2002, learned Chief Judicial Magistrate has convicted the applicants under Section 326/34 of the IPC and sentenced them to undergo RI for three years and to pay fine of Rs.200/- to each, with default stipulation. This order was appealed by the applicants and in the appeal, learned appellate Court has affirmed the conviction and sentence of the applicants. Hence, the present revision.

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

6. Counsel for the applicants 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 1997 and thereby more than 22 years have rolled by since then, they are aged about 42 years, the applicants have already remained in jail for about four months and no useful purpose would be served in again sending them to jail. Therefore, it would be in the interest of justice if the sentence imposed on them may be reduced to the period already undergone by them.

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

8. Having gone through the material on record and the evidence of the witnesses including Kapil Kumar (PW-1), Pritram (PW-2), Bhagwani (PW-3), Itwari (PW-4) and Dr. O.P. Dubey(PW-8) establishes the involvement of the accused/applicants in crime in question, this Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Section 326/34 of the IPC, being so they are hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 1997 and the applicant has already remained in jail for about four months and further considering the fact that the applicants have already faced a prolonged trial and suffered trauma of uncertainty arising out of their conviction by the Sessions Court, the revision is partly allowed and their sentence is liable to be reduced to the period already undergone by them. Conviction part of the impugned judgment is maintained.

10. The applicants are on bail. Their bail bond shall stand discharged.

11. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
JUDGE