

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 71 of 2008**

1. Hemant S/o Bandhulal Chandrakar, Aged about 22 years,
 2. Jayant S/o Komal Chandrakar, Aged about 25 years,
 3. Bandhu Lal S/o Tenu Chandrakar, Aged about 51 years
 4. Jittu Kumar S/o Vijay Rajput, Aged about 21 years
 5. Ashok S/o Bandhulal Chandrakar, Aged about 19 years,
- All are R/o Ward No. 10, Navagaonkala Bagbahara, Police Station Bagbahara, District Mahasamund (C.G.).

---- Appellants**Versus**

State of Chhattigarh Through Station House Officer, Police Station Bagbahara,
District Mahasamund (C.G.).

---- Respondent

For Appellants : Mr. Y.C. Sharma, Advocate
For Respondent : Mr. Anand Verma, Dy. Govt.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****06/11/2019**

1. This appeal has been preferred against the judgment dated 07/12/2007 passed in Sessions Trial No. 11/2007 by the Special Judge, Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, Mahasamund (C.G.), whereby the Appellants have been convicted under Sections 294 and 506 Part-II of the IPC and sentenced to undergo RI for 1 month with fine of Rs. 1000/- and RI for 6 months with fine of Rs. 2000/-, respectively, with default stipulations.
2. Facts of the case are that Complainant Dhanasiya Bai and her grand

daughter Jeteswari who was studying in Class-6, were living together. She made a complaint alleging therein that 15 days prior, Appellant Jayant visited to the school of her grand daughter and told Jeteswari that her mother is not well. He had taken her from school to a field. At that time, one villager met them on the way and Jeetewari came to know that the Appellant fraudulently taken her from school. Thereafter, she returned to her house and narrated the whole incident. On the instance of Complainant, a village meeting was called, but no one attended the said meeting. After some time, Appellant Jayant came in front of her house and abused them with threatening. In the night also, he came in drunken condition and abused them with threatening to disgrace her grand daughter. It is alleged that other Appellants were also present at that time and participated in the offence. On the basis of said report, offence has been registered. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges under Sections 354, 294 & 506 (B) of the IPC and Section 3 (1)(10) of the SC/ST (Prevention of Atrocities) Act. To prove the guilt of the Appellants, the Prosecution has examined as many as 9 witnesses. No defence witness has been examined. Statements of the Appellants under Section 313 of the Cr.P.C have been recorded, wherein they have pleaded their innocence and false implication in the matter.

3. After trial, the trial Court has acquitted the Appellants from the charge framed under Section 354 of the IPC and Section 3 (1) (10) of the SC/ST (Prevention of Atrocities) Act, 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 Appellant Jayant has already undergone about 110 days and remaining Appellants have already undergone about 10 days, they have no criminal antecedent and they are facing the *lis* since 2006, 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 6 months, Appellant Jayant has already undergone about 110 days and remaining Appellants have already undergone about 10 days, they are facing the *lis* since 2006 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 294 & 506 Part-II of the IPC is enhanced to Rs. 5,000/- - 5000/-, respectively against each 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 SI for 3 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.

8. Consequently, the appeal is partly allowed to the extent indicated above.
9. 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.
10. 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