

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 243 of 2005

1. Manbodh S/o Garra Rawat, aged about 45 years, occupation, cultivator, R/o village Hiccha, Police Station and Tahsil Sarngarh, district Raigarh(C.G.)
2. Chandram S/o manbodh Rawat, aged about 25 years. R/o Village Hiccha Police Station and Tahsil Sarngarh, district Raigarh. (C.G.)

---- Applicants

Versus

- State of Chhattisgarh.

---- Respondent

For Appellants	:	Shri Prakash Tiwari, Advocate
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

06.05.2019

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 06/06/2005 passed by the Sessions Judge, Raigarh, District Raigarh, in Cr. Appeal No. 02/2005 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Sarangarh, District Raigarh, vide its judgment dated 24/12/2004 in Criminal Case No. 330/2003 for the offence under Sections 452 and 323 of IPC and sentenced them to undergo S.I. for six months with fine of Rs. 50/- to each and fine of Rs. 100/- to each, plus default stipulation respectively.

2. The prosecution story, in brief, is that the applicants and complainants both have tailoring shop and their shop is situated in front of each other's. On 05/03/2003 at about 8 AM, when complainant Tarachand was weaving cloths and his younger brother Khemchand

was stitching the cloths, applicants entered the shop having sticks and assaulted Khemchand on his head and back, resulting in, grievous injuries. While interfering, complainant Tarachand was also assaulted by the applicants. An FIR was lodged against the applicants at Police Station Sarangarh. After completion of investigation, charge-sheet was filed and charges were framed upon the applicants under section 452 and 323/34 IPC.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 10 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charge 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 24/12/2004, learned Judicial Magistrate First Class, has convicted the applicants for the offence under Sections 452 and 323 of IPC and sentenced them as described in para 1 of this case. This order was appealed by the applicants and in the appeal, learned Appellate Court has confirmed the conviction and sentence of the applicants. Hence, the present revision.

5. Heard learned 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 the revision so 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 2003, and thereby more than 15 years have rolled by since then. Applicant No. 1 Manbodh and Appellant No. 2 Chandram are aged about 50 years and 40 years respectively. The applicants have already remained in jail for more than 15 days, and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them.

7. Learned counsel for the State has no objection to this

preposition.

8. Having gone through the material on record and the evidence of the witnesses Tarachand (PW-1), Khem Singh (PW-2), Bhujbal (PW-3) Ishwar (PW-4), Motidas (PW-5), Dr. R.L. Sidar (PW-9) and R.K. Kesharwani (PW-10) involvement of the accused/applicants in the crime in question stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the appellant under Sections 452 and 323 of IPC

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2003, and further that the applicants had already remained in jail for more than 15 days, therefore, their sentence is liable to be reduced to the period already undergone by them.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him.

Sd/-
(Rajani Dubey)
JUDGE

Vijay Sahu