

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 130 of 2008

1. Maan Bai W/o. Manohar, aged about 40 years,
2. Manohar @ Manavar, S/o. Shri Kanval Singh, aged about 45 years,
3. Dinesh S/o. Manohar, Aged about 19 years,

All the applicants are resident of village Peeparchhadi, P.S. Gurur, District Durg (C.G.)

Versus

State of Chhattisgarh Through Police Station Gurur, District Durg (C.G.)

For the Applicants : Shri Vivek Sharma, Advocate

For the Respondent : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

09.04.2019

By the judgment under challenge passed on 14.02.2008 by Additional Sessions Judge (FTC) Balod, in Criminal Appeal No. 544/2003, modifying the judgment of conviction and order of sentence dated 02.12.2003 passed by the Judicial Magistrate First Class, Balod in Criminal Case No. 773/2002, convicting the accused/applicants under Section 323/34 and 325/34 IPC and sentencing him to undergo SI for 1 month u/s. 323/34 IPC, RI for six months and to pay fine of Rs. 100 plus default stipulation.

2. Facts of the case, in brief, are that complainant Gayabai (PW-1) lodged the FIR in Police Station Gurur, alleging that the

house of the applicants and the complainant are adjacent to each other. Applicant Manohar cut the shrub standing in the land of the complainant and got put out the bricks of their wall, when she objected him, on this applicant Manohar started abusing her and at the same time son of Manohar, Dinesh and his wife Manbai came there, abused her and the applicants assaulted her with stick. During fight daughter of complainant Anita and Anjulata came to save her mother Gayabai then the applicants assaulted them also. Gayabai received injuries on her head and hand, Anjulata and Anita received injuries on their head. On the basis of this report, police registered the case against the applicants and the complainants was sent for medical examination. After completion of investigation, charge sheet was filed against them and charge was framed accordingly.

3. Having taken note of the material on record the Trial Court convicted and sentenced the Applicants under Sections 323/34 and 325/34 IPC. The lower Appellate Court affirmed the conviction of the applicants and modified the sentence part only. Hence, this revision.

4. 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 they have remained under detention of 12 days, the jail sentence imposed on them may be reduced to the period already undergone and thereby protect their well settled family life from being up-rooted at this stage.

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

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

7. Having gone through the material on record in particular the evidence of PW-1, PW-2 and PW-3, clearly indicating the involvement the applicants in the crime in question where they caused injuries to the complainants party. Evidence of PW-7 - the doctor who medically examined complainants Gayabai, Manjulata and Anita and gave his report under Ex.P-3 to Ex.P-5 shows that he examined Manjulata under ExP-3 and noticed oblique abrasion over the right side of skull of 7.5 cm and 3cmx0.3 cm. Oblique abrasion over middle part of left leg in the size of 10 cm below knee joint in the size of 2.00 cm X 0.3 cm and blood clot were present over. He examined Gayabai under Ex. P-4 and noticed swelling over the right side at the liner of both sides of ears in the size of 7 cmx 8.5 cm front hair line in the size of 3.00 cm x1.5cm margin slightly elevated tenderness was present. Oblique abrasion in the size of 5.5 cm above elbow joint in the size of 7.00cm x 1.5 cm. Traverse bruises over right side of back in the size 3.5 cm right to V.C. of 17 cm on right scapula. Traverse bruises over self side on upper side of back in the size of 9.5 cm below in the size of 4.00cm x 1.5 cm margin and tenderness present. He also examined Anita under Ex.P-6 and noticed swelling in the size of 3.cm X1.5 cm, lacerated wound in the size of 7.00 x1.5 cm. Traverse bruises on the right

scapula in the size of 5.5. cmX1.5 cm and Traverse buries over the left side of upper part on the hand 4.00 cmx 1.5 cm and tenderness was present. Even the radiologist has noticed fractures on the different parts of the body of complainants Gayabai. Seizure witnesses have also admitted his signature on the seizure memo Ex. P-1 to Ex.P-3. Overall evidence thus establishes that on account of trivial dispute picked up first by the applicants and they opened an assault on the victim causing injuries referred to above by a hard blunt object and therefore, their conviction under Sections 323/34 and 325/34 IPC are maintained.

8. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 19 years ago and the applicants have already remained in jail for a period of 12 days and deposited fine amount imposed on them, in my opinion, no useful purpose is going to be served in again sending them to jail. Accordingly, their sentence is reduced to the period already undergone by them. However, the sentence of fine under section 325/34 IPC is enhanced from Rs. 100/- each to Rs. 500/- each.

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

Sd/-

(Vimla Singh Kapoor)
JUDGE