

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 347 of 2008**

1. Hari Singh, aged 29 years, S/o Shri Bihari Singh.
2. Ram Singh, aged 27 years, S/o Shri Bablu Rathore.
3. Paras Ram, aged 31 years, S/o Shri Bihari Singh.

All Caste- Gond, R/o Village- Jilda, P.S. Pendra, Tahsil- Pendra Road, District Bilaspur (C.G.)

---- Applicants

Versus

- State of Chhattisgarh, through Police Station Pendra Road, District Bilaspur (C.G.)

---- Respondent

For Applicants	:	Mr. Dharendra Mishra, Adv.
For Respondent/State	:	Mr. Anil Tripathi, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

20.09.2019

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 10.04.2008 passed by the learned Additional Sessions Judge, Pendra Road, District- Bilaspur, in Cr. Appeal No. 13/2008 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, Pendra Road, District Bilaspur, vide its judgment dated 25.01.2008 in Criminal Case No. 43/2006 for the offence under Sections 323/34 & 325/34 of the IPC and sentenced them to undergo R.I. for 6 months each, and R.I. for 1 year with fine of Rs. 50/- each, plus default stipulation respectively.

2. Brief facts of the case are that complainant Ram Singh lodged a written complaint before the concerned police station against the

applicants. As per the written complaint, on 30.12.2005 at about 6.00 PM, when the complainant with his wife namely Bhagwati and other persons namely Radha Bai and Ramkuwar was cutting the crop in his field, at that time, applicants came there having club with them and restrained the complainant from cutting the crop using filthy language. After that, applicant started assaulting the complainant Ram Singh due to which he sustained injuries. While reconciling, Bhagvati Bai, Radha Bai and Ramkuwar were also assaulted by the applicants consequently, Bhagvati Bai got fractured in her wrist of right hand. After completion of investigation, charge-sheet has been filed and charges were framed against the applicants.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 6 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 25.01.2008, learned Judicial Magistrate First Class has convicted and sentenced the applicants for the offence under Sections 323/34 & 325/34 of IPC and sentenced them as mentioned above in para 1. This order was appealed by the applicants and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the appellant. Hence, the present revision.

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 2005, and thereby more than 14 years have rolled by since then. The applicants have already remained in jail for more than 2 months, 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 opposed the prayer made by learned counsel for the Applicant and supported the impugned judgment.

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

8. Having gone through the material on record and the evidence of the witnesses complainant Ram Singh (PW-1), Bhagwati Bai (PW-2), Radha Bai (PW-3), Sankar Singh (PW-4), Dr. H. S. Tamwar (PW-5), and Dileep Dhirrahe (PW-6), 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 323/34 & 325/34 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2005, and further that the appellants had already remained in jail for more than 2 months, 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 appellants, they are sentenced to the period already undergone by them.

**Sd/-
(Rajani Dubey)
JUDGE**