

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 449 of 2008

1. Hari Prasad S/o. Babu Ram Satnami, Aged about 33 years,
2. Itwari S/o. Vijay Shankar Satnami, Aged about 35 years,
3. Budharu S/o. Shobit Kewat, Aged 51 years,
4. Ganeshu S/o. Nathelu Satnami, Aged about 20 years,
5. Bolo @ jageshwar S/o. Mangal Das, Aged about 20 years,
6. Pyarelal S/o. Manrakhan Kewat, Aged about 55 years,
7. Sadani S/o. Birau Satnami, Aged about 65 years.

All are residence of village Nayapara, Achharidih, Thana Tumgaon, District Mahasamund (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through the District Magistrate Mahasamund, District Mahasamund (C.G.)

---- Respondent

For the Applicants : Mr. Awadh Tripathi, Advocate

For the Respondent : Mr. I. Lakra, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

31.01.2019

1. The judgment under challenge in this revision petition is dated 26.06.2006 passed by Additional Sessions Judge Mahasamund, in Criminal Appeal No. 103/2007, modifying the judgment dated 09.10.2007 passed by Judicial Magistrate First Class Mahasamund, in Criminal Case No. 157/2005, convicting

the accused/applicants under Section 323 IPC and sentencing them to undergo RI for 6 months with fine of Rs. 50/- plus default stipulation.

2. Facts of the case, in brief, are that on 16.01.2005 the dispute arose between the complainants and the applicants regarding casting of votes in the Panchayat Election in favour of Punitram who was one of the candidate of Sarpach. The applicants constituted an unlawful assembly with common object and assaulted complainant Baratu, Santosh and Dwarika with hands and fits. FIR (Ex.P-1) was lodged by complainant Baratu against the applicants under Sections 294,332/149 and 147 IPC in Police Station Tumgaon. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicants.

3. Learned Magistrate having perused the material before it convicted the accused/applicants under Sections 294,332/149 and 147 IPC and sentenced them as above, which on appeal has been modified by the judgment impugned. Hence, this revision.

4. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicants is confined to reduction of sentence imposed on the accused/applicants to the period already undergone on account of the fact that the case is quite old and the accused/applicants have already remained in jail for some time.

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

6. On perusal of the evidence of complainant Baratur (PW-1) which has been duly supported by PW-2, PW-4, PW-5 and PW-7, it is clear that on the date of incident the accused/applicants in order to teach a lesson to the complaint party they went to the spot and assaulted the injured persons with hands and fists. Doctor (PW-8) who examined the complainants and proved his reports vide Ex.P-6, Ex.P-7 and Ex.P-8. The Court below has been fully justified in passing the order impugned. Conviction of the accused/applicants is thus maintained.

7. Thus, in view of the factual discussion made above in the light of the evidence of the witnesses, this Court is of the opinion that both the Court below has been quite justified in holding the accused/applicants guilty under Section 323 IPC and being so, the same is hereby maintained.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 2005, that the accused/applicants have already remained in jail for a period of 11 days and further that by now they must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on them to the period already undergone.

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

Sd/-
(Vimla Singh Kapoor)
JUDGE