

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 734 of 2008

- Thanda Ram, S/o Shiv Prasad Dhiwar, aged about 35 years, R/o Village : Putpura, Police Station : Janjgir, District – Janjgir – Champa, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through The District Magistrate, Janjgir, District – Janjgir – Champa, Chhattisgarh

---- Respondent

For Applicant	:	Ms. Richa Dwivedi, Adv.
For Respondent/State	:	Shri Wasim Miyan, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

15.07.2019

The present revision arises out of the impugned order and judgment of conviction and order of sentence dated 03.11.2008 passed by the Learned Additional Session Judge, Janjgir, District – Janjgir – Champa, in Cr. Appeal No. 79/2008, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate first Class, Janjgir, vide its judgment dated 20.08.2008 in Cr. Case No. 1028/2008 for the offence under Section 324/34, 324/34 of the IPC, and sentenced to undergo RI for three months along with fine of Rs. 500/-, RI for three months along with fine of Rs.500/-, Section 25-1(B) (b) of the Arms Act, 1959 and sentenced to undergo RI for one year along with fine of Rs.500/- with default stipulation.

2. Brief facts of the case are that on 23.06.2008, the articles kept inside the tractor of Yugal Kishor were stolen. His brother Jagriti, on the basis of suspicion, made a report against the accused Thandaram and one other Bharat Rathore in the police station. On 28.06.2008, when the complainant Yugal Kishor was going towards his house, the applicant started abusing him in filthy languages and when it was opposed by the complainant, accused Thandaram and other co-accused assaulted the complainant with Khukhri (knife). The FIR was lodged in the police station by complainant against the applicant and other co-accused. After filing of charge-sheet, charges were framed against the accused/applicant and other co-accused under Section 324/34 of the IPC and Section 25-1(B)(b) of the Arms Act.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 10 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 20.08.2008, learned Judicial Magistrate First Class has convicted the accused/applicant under Section 324/34 and 324/34 of the IPC and sentenced him to undergo RI for three months and to pay fine of Rs. 500/-, RI for three months and to pay fine of Rs. 500/- and Section 25-1(B)(b) of the Arms Act and sentenced him to undergo RI for one year and to pay fine of Rs.500/- plus default stipulations. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicant. Hence, the present revision.

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

6. Counsel for the applicant submits that he is not pressing this revision as 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 2008 and thereby more than 11 years have rolled by since then, he is aged about more than 50 years, the applicant has already remained in jail for about more than two months and no useful purpose would be served in again sending him to jail. Therefore, it would be in the interest of justice if the sentence imposed on him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses including Yugal Kishor (PW-1), Janglu Kewat(PW-2), Barsaitram (PW-3), Bhim Singh (PW-4), Ankur Tiwari (PW-6), Kumar Yadav(PW-7) and Dr. Arvind Dwivedi (PW-10), establishes the involvement of the accused/applicant in the crime in question, this Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Section 324/34 of the IPC and Section 25-1(B)(b), being so they are hereby maintained.

9. So far as sentence part is concerned, Section 25-1(B)(b) of Arms Act deals with the punishment of certain offences, which reads as under :-

“(b) Acquires, has in his possession or carries in any place specified by notification under Section 4 any

arms of such class or description as has been specified in that notification in contravention of that section : or

shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and shall also be liable to fine.

Provided that the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than one year.”

10. As regards sentence, keeping in view the fact that the incident had taken place in the year 2008 and further that the applicant has already remained in jail for about more than two months, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of more than two months, his sentence is reduced to the period already undergone by him. The applicant is on bail. His bail bond shall stand discharged.

Sd/-
(Rajani Dubey)
JUDGE