

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 501 of 2010**

- Manjoor Hussain, S/o Mayudin Musalman, aged about 36 years, R/o village Kothali, Thana – Shankergarh, District-Sarguja (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, through the District Magistrate, Ambikapur District- Ambikapur (C.G.)

---- Respondent

For Appellant	:	Smt. Indira Tripathi, Advocate
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Smt. Justice Rajani DubeyOrder On Board**05.04.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 11/08/2010 passed by the 4th Additional Sessions Judge, (FTC) Ambikapur, in Cr. Appeal No. 50/2010 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Ambikapur, vide its judgment dated 11/02/2010 in Criminal Case No. 277/2006 for the offence under Sections 452 and 324 of IPC and sentenced him to undergo R.I. for two years with fine of Rs. 500/- and R.I. for two years with fine of Rs. 200/- respectively default plus default stipulation.

2. Brief facts of the case are that appellant and complainant Jamila Begum reside separately in their respective houses which were adjacent to each other in the village Bhatthipara and complainant used to work in the part of her mother's field. On the date of incident, complainant asked for her Kodi (agricultural tool) to the applicant which

he has taken earlier but he refused to give it as the handle of it was broken. The complainant asked the appellant to repair it and gave back to her. On this conduct of complaint made the appellant annoyed and when complainant was inside her house, the applicant entered her house holding axe in his hand and assaulted her with the handle as a result of which she sustained grievous injuries. Upon hearing her cries Jagpati (PW-2) and Mahabir (PW-3) reached there and saw the incident. Thereafter the appellant ran away from the spot. At the instance of complainant Jamila, an FIR was registered against the appellant in the police station.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 06 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge 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 11/02/2010, learned Judicial Magistrate has convicted and sentenced the applicant for the offence under Sections 452 and 324 of IPC and sentenced him to undergo R.I. for two years and to pay fine of Rs. 500/- and R.I. for two years and to fine of Rs. 200/- respectively in default of fine two months of simple imprisonment. This order was appealed by the applicant and in the appeal, learned Appellate Court has confirmed the conviction and sentence of the appellant. 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 applicant 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 2006, and thereby more than 12 years have rolled by since then. He is aged about more than 50 years. The applicant has already remained in jail for three and a half months, and no useful purpose would be

served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

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 Jameela Begum (PW-1), Jagpati Bai (PW-2), Dr. J. Kujur (PW-4) and Kanhaiya Tiwari (PW-5), involvement of the accused/applicant 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 appellants under Sections 452 and 324 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2006, and further that the appellant had already remained in jail for two and a half months, therefore, his sentence is liable to be reduced to the period already undergone by him.

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