

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 640 of 2008**

- Bajrang Lal Sen S/o Ganpat Ram Sen, aged about 42 years. R/o village- Saraipali, Police Station and Tahsil- Saraipali district- Mahasamund (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, through Police Station Saraipali District- Mahasamund (C.G.)

---- Respondent

For Appellant	:	Ms. Laxmin Kashyap, adv.
For Respondent/State	:	Mr. Wasim Miya, PL

Hon'ble Smt. Justice Rajani DubeyOrder On Board**29.07.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 21.02.2008 passed by the First Additional Sessions Judge, Mahasamund (C.G.) in Criminal Appeal No. 89/2007 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, Saraipali vide its judgment dated 10.08.2007 in Criminal Case No. 579/2000 for the offence under Section 323 of IPC and sentenced him to pay fine of Rs. 1,000/-, plus default stipulation.

2. Brief facts of the case are that there was dispute between applicant and complainant relating to the field bearing Kh. No. 730/24 and 730/12. A stay was filed by the applicant Bajrang Lal relating to the land in question in the Sessions Court, which was vacated. On 18.05.2000, on the same field, complainant Rajesh Mittal was laying out the field in presence of engineer Neerat & contractor Diwakar Mishtri. At the same time, applicant came there, asked them to stop the work,

go from the place and threatened for dire consequences. Thereafter, the present applicant and other co-accused persons hurled abuses and assaulted the complainant Rajesh Mittal. Based on this, an FIR was registered against the accused/applicant and other co-accused. After completion of investigation, charge-sheet was filed and charges were framed against the applicant and other co-accused under Sections 294, 323, & 506 Part-II of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 11 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. Apart from this, prosecution has also examined four defence witnesses.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 10.08.2007, learned Judicial Magistrate First Class has acquitted the two co-accused namely Ramesh alias Santu and Chattarlal alias Munna and convicted the present applicant Bajrang Lal Sen and other co-accused Dabbu Sen for the offence under Section 323 of IPC and sentence them to pay fine of Rs. 1,000/-. This order was appealed by the applicant and other co-accused. Learned appellate Court has acquitted the other co-accused namely Dabbu Sen and dismissed the appeal of the present applicant namely Bajrang Lal Sen. Hence, this revision petition.

5. Counsel for the applicants submits that the sentence awarded to the applicant by both the Courts below is arbitrary, illegal and contrary to the law. Both the Courts below have not properly appreciated the evidence because there is no evidence available against the applicant to bring home his guilt. He further submitted that the prosecution has failed to prove the ingredients of the offence under Section 323 of the IPC. The conviction is based only on the statement of the interested witnesses, which are not trustworthy, according to law.

7. On the other hand, supporting the impugned judgment, learned counsel for the State submits that the Court below was fully justified in

convicting and sentencing the applicants.

8. Having gone through the material on record and the evidence of the witnesses Rajesh Mittal (PW-1), Manoj Mittal (PW-2), Ramchandra Agrawal (PW-3), Mohan Agrawal (PW-5), Nooradhan (PW-7) & Dr. R.S. Patel (PW-8), 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 appellant under Section 323 of IPC.

9. Considering the facts and circumstances of the case, in particular, the fine amount awarded by the Appellate Court in its order dated 21.02.2008, this Court do not find any merit in the present revision and, therefore, the same is liable to be and is hereby dismissed.

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