

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 68 of 2007

Jai Singh, S/o Gore Singh, aged 30 years, R/o Village Sukli, Police Station Janjgir, Tehsil Janjgir, District Janjgir, Chmpa (CG)

---- Applicant

Versus

The State of Chhattisgarh through Police Station Janjgir, District Janjgir, Champa (C.G.)

--- Respondent

For Applicant : Shri Gurudev I. Sharan, Advocate

For Respondent : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

13/03/2019

Case of the prosecution goes to show that on 29.03.1992 at about 12 noon, accused Ramdhar and Shesh Narayan had hurled filthy abuses at the victim PW-1 whereas accused/applicant herein had caused injuries to her with the help of club on various parts of her body. On the basis of entries made in the Rojnamcha Sanha FIR (Ex.P-7) was registered against the accused/applicant under Sections 325/34, 323/34 IPC. Case of the prosecution further goes to show that when son of PW-1 namely Balram who has been examined by the prosecution as PW-2 came to intervene in the matter he too was assaulted by the accused/applicant with the help of club. PW-1 and PW-2 were medically examined and after completion of investigation the charge-sheet was filed against the accused/applicant herein and two others.

2. Learned Magistrate vide judgment dated 30.11.2006 convicted all the accused persons under Sections 294, 323/34 and 325/34 IPC and imposed the sentences of various descriptions maximum being RI for one year under Section 325 IPC with payment of fine coupled with default stipulation. However, learned lower Appellate Court vide judgment impugned dated 14.02.2007 passed in Criminal Appeal No.45/2006 set aside the findings recorded by learned Magistrate as far as co-accused persons are concerned

and acquitted them of the charges levelled against them. Learned lower Appellate Court also acquitted the present applicant of the charge under Section 294 IPC and in place of his conviction under Sections 323/34 and 325/34 IPC he has been convicted under Sections 323 and 325 IPC. Hence, this revision.

3. Counsel for the accused/applicant submits that learned lower Appellate Court has not based its findings on the correct appreciation of the evidence on record. He submits that when the co-accused persons have been acquitted on the same set of evidence, the present applicant is also entitled for the same relief. State counsel however supports the judgment impugned.

4. As regards the present applicant, from the evidence of PW-1 and PW-2 it is apparent that the accused/applicant herein had caused injuries with the help of club on various parts of their body such as elbow, leg thigh and ankle. Even the seizure of club was also made under Ex.P-3 from the possession of the accused/applicant herein. Evidence of doctor (PW-7) also goes to show that victim (PW-1) sustained injuries on her thigh, left forearm, and x-ray was recommended for ascertaining the fracture. Medical examination report of PW-1 is Ex.P-5. This witness also medically examined PW-2 and vide his report (Ex.P-6) he noticed one abrasion on his shoulder and the pain on his left palm was complained of. X-ray report (Ex.P-7) also goes to show that radius bone of PW-1 was found to be fractured. Thus in view of the evidence on record the conviction of the accused/applicant under Sections 325 and 323 IPC cannot be said to suffer from any legal flaw though which is hereby maintained.

5. As regards sentence, considering the fact that incident had occurred in the year 1992 and since then considerable period has passed by and further that the accused/applicant has remained in jail for 12 days according to the concerned opinion of this Court the interest of justice would be met if the sentence imposed on him is reduced to the period already undergone by enhancing the fine to Rs.2000/- from Rs.500/- as was imposed by the Court

below. Order accordingly. Let this enhanced fine amount be deposited by the accused/applicant in the trial Court within a period of 4 months from today or else he will not be entitled for receiving the benefit of this order.

6. Revision thus partly allowed.

Sd/-
(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay