

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 262 of 2008**

1. Sagaram S/o Bagarsai, aged about 30 years, Occupation-Agriculture, R/o Village Maheshpur, P.S. Jainagar, District-Surguja, C.G.
2. Nohar Sai S/o Buddu-Ram, aged about 40 years, Occupation-Agriculture, R/o Village Maheshpur, P.S. Jainagar, District-Surguja, C.G.
3. Bhaiyalal S/o Buddhu Ram, aged about 25 years, R/o Village Maheshpur, P.S. Jainagar, District-Surguja, C.G.
4. Dular Sai S/o Buddhu Harijan, aged about 37 years, R/o Village Maheshpur, P.S. Jainagar, District-Surguja, C.G.

---- Applicants

Versus

- State Of Chhattisgarh, Through : S.H.O. P.S. Jainagar, District-Surguja, Chhattisgarh.

---- Respondent

For Applicants	:	Ms. Sareena Khan, Adv.
For Respondent/State	:	Mr. Wasim Miyan, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****27/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 09.04.2008 passed by the learned First Additional Sessions Judge, Surajpur, District-Surguja, in Cr. Appeal No. 150/2006 and 151/2006 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Surajpur, District-Surguja vide its judgment dated 19.06.2006 in Criminal Case No. 149/2001 for the offence punishable under Sections 294, 332 and 323/34 of IPC and sentenced them to pay fine of Rs. 200/- - 200/-, to undergo S.I. for 6-6 months and to pay fine of Rs. 500/- - 500/- each, respectively, plus default stipulation.

2. Brief facts of the case are that on 08.03.2001 at about 11:30 am, applicants/accused persons abused complainant Rajendra Prasad, Shankar Singh and Manager Rajwar and threatened them, deter them in discharge of

their public duty and assaulted them by means of Lathi and Danda. FIR was registered against the applicants. After completion of investigation charge-sheet was filed and charges were framed against the applicants under Sections 294, 332 and 323/34 of IPC by trial Court.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 6 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the circumstances appearing against them and pleaded innocence and false implication in the case, applicants/accused persons have examined one witness in their defence.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 19.06.2006, learned Judicial Magistrate has convicted the accused/applicants for the offence punishable under Sections 294, 332 and 323/34 of IPC and sentenced them to pay fine of Rs. 200/- - 200/-, to undergo S.I. for 6-6 months and to pay fine of Rs. 500/- - 500/- each, respectively, plus default stipulation. This order was appealed by the applicants and in the appeal, learned Appellate Court has modified the sentence as under Section 332 to undergo R.I. for 3-3 months. Hence, the present revision.

5. Learned Counsel for the applicants 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 2001, and thereby more than 20 years have rolled by since then. The applicants are aged about 50, 60, 45 and 57 years old and the applicants have already remained in jail for more than 12 days, and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them.

6. Learned counsel for the State has no objection to this proposition.

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

8. Having gone through the material on record and the evidence of the Manijar Ram (PW-1), Shankar Singh (PW-2), Dr. K.K. Tamrakar (PW-3), Rajendra Prasad Singh (PW-4), Uttam Prasad (PW-5) and C.S. Sharma

(PW-6), which established the involvement of the accused/applicants 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 applicants under Sections 294, 332 and 323/34 of IPC being so they are hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2001, and further that the applicants had already remained in jail for more than 12 days, therefore, their sentence is liable to be reduced to the period already undergone by them.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicants, they are sentenced to the period already undergone by them. The applicants are on bail. Their bail bond shall stand discharged.

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