

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 485 of 2011**

1. Bhushan Kumar Sinha S/o Lakhan Lal Sinha, aged about 31 years,
 2. Chaman Lal Sahu S/o Shri Ram Sahu, aged about 23 years,
 3. Yogesh Kumar Sahu S/o Shri Ram Sahu, aged about 26 years,
 4. Kalyan Sahu S/o Shri Ram Sahu, aged about 25 years,
- All are R/o Village Aanwri, Police Station Charama, District Kanker (C.G.).

---- Appellants**Versus**

State of Chhattigarh Through Police Station Charama, District North Bastar, Kanker (C.G.).

---- Respondent

For Appellants	:	Mr. Shobhit Koshta, Advocate
For Respondent	:	Mr. Sushil Sahu, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**26/08/2019**

1. This appeal has been preferred against the judgment dated 30/06/2011 passed in Special Trial No. 93/2010 by the Sessions Judge, Kanker, District Uttar Bastar, Kanker (C.G.), whereby the Appellants have been convicted under Sections 324 read with Section 34 & 427 of the IPC and sentenced to undergo RI for 2 years and to pay fine of Rs. 2000/- and RI for 1 year and to pay fine of Rs. 3000/-, respectively, with default stipulations.
2. Facts of the case are that on 03/02/2010 Complainant Mahesh Sahu lodged a FIR (Ex.P-1) with the averments that he contested the Panchayat election from Ward No. 10 on the post of Panch. After

declaration of result, he along with his friend Rupesh was going to Avaspara Aawari from separate motorcycle. At about 10:15 near the house of Hari Ram Sahu, accused persons along with other persons stopped them and assaulted them by the Lathies. Both sustained injuries. It is also submitted that accused persons also threatened them to kill. Both the injured were medically examined by the doctor. On the basis of FIR, offence has been registered. Statement of witnesses under Section 161 of the Cr.P.C were recorded. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges under Sections 147, 148, 307/149 and 427 of the IPC against the Appellants as well as co-accused Lokesh Kumar Nishad and Sohan Sonwani. As many as 11 prosecution witnesses have been examined. Statement of the Appellants under Section 313 of the Cr.P.C were recorded, wherein they have pleaded their innocence and false implication in the matter. No defence witness has been examined.

3. After trial, the trial Court has acquitted co-accused Lokesh and Sohan Sonwani from all the charges and convicted and sentenced the Appellants as mentioned in the first paragraph of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellants submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the Appellant Nos. 1, 2 & 3 have undergone about 11 days and Appellant No. 4 has already undergone about 4 days, they are facing the *lis* since 2010 and they

have no criminal antecedent, therefore, he prays that the jail sentence awarded to the Appellants may be reduced to the period already undergone by them

5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that Appellant Nos. 1, 2 & 3 have undergone about 11 days and Appellant No. 4 has already undergone about 4 days, they are facing the *lis* since 2010 and they have no criminal antecedent, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail sentenced awarded to them is reduced to the period already undergone by them and the fine sentence imposed under Section 324 read with Section 34 and 427 of the IPC is enhanced to Rs. 5,000/- and 10,000/-, respectively. Ordered accordingly. The enhanced amount of fine shall be payable within 2 months from the date of receipt of a copy of this order. In default of payment, the Appellants shall be liable to undergo SI for 6 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.
8. Consequently, the appeal is partly allowed to the extent indicated above.

9. It is reported that the Appellants are on bail. Their bail bonds are not discharged at this stage and the same shall remain operative for a further period of 6 months in light of Section 437-A of the Cr.P.C.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul