

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 310 of 2016**

1. Anil Das @ Duldul S/o Premdas, aged about 42 years.
2. Smt. Anita Singh W/o late Shri Pradeep Singh, aged about 44 years.

Both are R/o village - Baitalpur Chandrakhuri, Thana - Hirri, Revenue, District Mungeli, Civil District - Bilaspur (C.G.)

----Applicants**Versus**

- State of Chhattisgarh Through : The District Magistrate, Mungeli, District Mungeli, Chhattisgarh.

---- Respondent

For Applicants	:	Shri Sunil Sahu, Adv.
For Respondent/State	:	Ms. Akshara Amit, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****23/09/2019**

01. This criminal revision is directed against the order dated 04.04.2016 passed by Additional Judge of Additional Sessions Judge, Mungeli (C.G.), in Criminal Appeal No.32/2015, whereby the learned appellate Court below has affirmed the conviction of the applicant Anil Das (A-1) under Sections 325, 323, 323/34 and 452 IPC and sentenced him to undergo R.I. for six months with fine of Rs.1,000/-, R.I. for three months and R.I. for three months, plus default stipulation respectively and conviction of applicant Anita Singh (A-2) under Sections 452,

325/34, 323/34 and 323/34 IPC and sentenced her to undergo R.I. for six months with fine of Rs.1,000/-, R.I. for six months with fine of Rs.1,000/-, R.I. for three months and R.I. for three months plus default stipulation respectively, as awarded on 13.05.2015 by the Judicial Magistrate First Class, Mungeli (C.G.), in Criminal Case No.357/2013.

02. Brief facts of the case are that on 04.11.2008 at 4.00 pm, Rojel Das, son of complainant Premlin Das, had parked his vehicle bearing registration No.CG-10-T-2902 by the side of main road near his house. At about 8.30 PM, applicant Anil Das came there holding club in his hand, hurled abuses in the name of mother and sister and told the complainant to call her son, he will remove his vehicle and assaulted the complainant on her knee with club. At the relevant time, applicant Anita Singh (A-2), sister of applicant Anil Das (A-1) and other family members namely Archana and Golu also came there and assaulted them hurling abuses. When Rojel Das, son of complainant Premlin Das, came there, the applicants committed maarpeet with him as a result of which he sustained injury on his head. Applicant also committed maarpeet with Abhishek, Pappu and Alia. Thereafter, the matter was reported at police station, Hirri. Based on which, FIR (Ex.P/1) was lodged by complainant Premlin Das and offence under Sections 452, 294, 323, 34 IPC was registered against the applicant. After medical examination of the injured persons and after completion of investigation, the

charge sheet was filed against the accused/applicants.

03. So as to hold the accused/applicants guilty, the prosecution has examined as many as 10 witnesses. Statements of the accused/applicants were also recorded under Section 313 of CrPC, in which they denied the circumstances appearing against them and pleaded innocence and false implication in the case.

04. Learned Magistrate having perused the material before it convicted the accused/applicant Anil Das (A-1) under Sections 325, 323, 323/34 and 452 IPC and sentenced him to undergo R.I. for six months with fine of Rs.1,000/-, R.I. for three months and R.I. for three months, plus default stipulation respectively and applicant Anita Singh (A-2) under Sections 452, 325/34, 323/34 and 323/34 IPC and sentenced her to undergo R.I. for six months with fine of Rs.1,000/-, R.I. for six months with fine of Rs.1,000/-, R.I. for three months and R.I. for three months, plus default stipulation respectively. This order was appealed by the applicants and in the appeal, the learned Appellate Court has affirmed the conviction and sentence of the applicants as described above. Hence, the present revision.

05. 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 2008 and thereby more than 11 years have rolled by since then. The applicants have

already remained in jail for about 26 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.

06. State counsel, however, supports the findings recorded by the Court below.

07. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

08. From the evidence of Premlin Das (PW/1), Balwin (PW/2), Abhishek (PW/3), Ku. Eliza Beth (PW/4), Rojel Das (PW/6), Pappu @ Nathaniel (PW/8), whose evidence is well corroborated with each other and evidence of Dr. Devesh Pradhan (PW/9), who medically examined the injured Premlin Das (PW/1), Rojel Das (PW/6) and Abhishek (PW/3) and noticed injuries as specified in medical reports (Ex.P/4, P/5 and 6) respectively and evidence of Dr. Georgo Bhakha (PW/10), Radiologist, who noticed fractured on right knee of complainant Premlin Das (PW/1), this Court is of the opinion that the conviction recorded by both the Courts below as described above is strictly on the basis of evidence on record and there is nothing worth interference with the same. Conviction is thus maintained.

09. As regards sentence, keeping in view the facts that the incident had taken place in the year 2008 and thereby more

than 11 years have rolled by since then and further that the applicants have already remained in jail for more than 26 days. This Court is of the opinion that no useful purpose would be served in sending them back to jail at this stage and the ends of justice would be served if they are sentenced to the period already undergone by them.

10. In view of the aforesaid discussion, 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 reported to be on bail. Their bail bonds shall stand discharged.

Sd/-

(Rajani Dubey)
JUDGE

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