

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRIMINAL APPEAL No. 3388/1999**

(Arising out of judgment of conviction and order of sentence dated 5-10-1999 passed by 1st Additional Session Judge, Raigarh in S.T. No. 64/1996)

...

Purushottamdas Vaishnav, S/o. Gengadas Vaishnav, aged about 30 years, R/o. Madhuwanpara, PS Raigarh – Kotwali, Raigarh, Distt. Raigarh (CG)

----Appellant**-Versus-**

State of Madhya Pradesh (now Chhattisgarh) through PS Kotwali, Raigarh, Distt. Raigarh (MP) (now CG)

----Respondent

For appellant : Shri Rajendra Tripathi, Adv.

For State : Shri Wasim Miyan, PL.

Hon'ble Shri Sharad Kumar Gupta, Judge

JUDGMENT ON BOARD**15-3-2019**

1. In this criminal appeal challenge levied is to the judgment of conviction and order of sentence dated 5-10-1999 passed by 1st Additional Sessions Judge, Raigarh in S.T. No. 64/1996 whereby and whereunder he convicted the appellant for the offence punishable u/s 324 of the Indian Penal Code (in brevity 'IPC') and sentenced him to undergo RI for 6 months and to pay fine of Rs. 1,000/-, in default of payment of fine, to further undergo additional RI for 2 months.

2. In brief, case of the prosecution is that on 7-1-1996 at about 11.15 am at village Madhuwanpara, Raigarh the appellant assaulted on the head of complainant Sampatlal Sahu by a sword. After completing the investigation a charge sheet was filed against him. Trial Court framed charge under Section 307, IPC against him. After conclusion of the trial, Trial Court acquitted him for offence punishable under Section 307, IPC however convicted and sentenced him as aforesaid.

3. Being aggrieved, the appellant has preferred this criminal appeal.

4. Counsel for the appellant at the outset urged that he is not challenging the conviction of the appellant rather he is challenging only the aforesaid period of sentence of RI.

5. The Panel Lawyer appearing for the State argued that aforesaid RI is just and proper and does not call for any interference.
6. At the time of the incident, no minimum imprisonment was provided for the offence punishable under Section 324 of the IPC. The appellant has remained in jail for about 11 days. About 23 years have passed after the incident. At the time of incident, he was aged about 30 years, now he is about 53 years old. Now he is in mainstream of society. Sending him to jail would disturb his life as well as his family members' life. Hence, no useful purpose would be served if he is sent to jail after 23 years of the incident. Looking to these circumstances and observation made by Hon'ble Supreme Court in the matter of **Manjappa -v- State of Karnataka** [(2007) 6 SCC 231] I am of the opinion that cause of justice would be sub-served, if RI of 1 year is reduced to the sentence for the period already undergone by him and the fine amount may be suitably enhanced.
7. Consequently, the appeal is partly allowed. The sentence of the appellant for the offence punishable u/s 324 IPC, RI for 6 months is reduced to the period already under gone by him and fine of Rs. 1,000/- awarded by the trial Court is enhanced to Rs. 15,000/- (Rs. Fifteen thousand only), in default of payment of fine to further undergo RI for six months. The fine amount already deposited, if any, be adjusted in fine sentence imposed by this order. Out of the fine amount Rs. 15,000/- if deposited, Rs. 10,000/- (Rs. Ten thousand only) be given to victim Sampatlal Sahu, as compensation after the expiration of prescribed period of the further legal remedy available to the parties.
8. The appellant is granted two months' time from the date of this judgment for depositing the fine amount.
9. The appellant is reported to be on bail. His bail bond shall continue for a further period of six months as per requirement of Section 437-A, Cr.P.C.

Sd/-
(Sharad Kumar Gupta)
 Judge