

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1248 of 2000**

1. Bhagirathi Donsena s/o Goyal Donsena, aged about 50 years,
 2. Arjunlal Donsena S/o Bhagirathi Donsena, aged about 19 years,
 3. Hariprasad Donsena S/o Bhagirathi Donsena, aged about 21 years,
- Village: Sodka, Thana Kharasiya, Distt. Raigarh (M.P.) (Now Chhattisgarh)

---- Appellants**Versus**

State of Madhya Pradesh Through Station House Officer, Police Station Kharasiya, Distt. Raigarh (M.P.) (Now C.G.).

---- Respondent

For Appellants	:	Ms. Laxmin Tondey, Advocate
For Respondent	:	Ms. Smita Ghai, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**19/11/2019**

1. This appeal has been preferred against the judgment dated 11/04/2000 passed in Sessions Trial No. 5/1998 by the Additional Sessions Judge, Raigarh (C.G.), whereby the Appellants have been convicted under Section 325 read with Section 34 of the IPC and sentenced to undergo RI for 1 ½ years with fine of Rs. 500/- with default stipulation.
2. Facts of the case are that on 03/10/1997, the Appellants in furtherance of common intention assaulted the Complainant Shibram and caused grievous injuries. They also threatened him to kill. On the next day, the matter was reported. After completion of investigation, a charge-sheet

has been filed. Trial Court framed the charges under Sections 329 and 502 Part-II read with Section 34 of the IPC. As many as 12 prosecution witnesses have been examined. Two defence witnesses have been examined. Statement of the Appellants under Section 313 of the Cr.P.C have been recorded, wherein they have pleaded their innocence and false implication in the matter.

3. After trial, the trial Court has acquitted the Appellants from the charge framed under Sections 506 Part-II and 329 of the IPC, however, they have been convicted and sentenced as mentioned in paragraph one 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. The Appellants have undergone about 8 days out of total jail sentence of 1 ½ years, they have no criminal antecedent and they are facing the *lis* since 1997, 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 out of total jail sentence of 1 ½ years, the Appellants have undergone about 8 days, he is facing the *lis* since

1997 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentenced awarded to him is reduced to the period already undergone by him and the fine sentence imposed under Section 325 of the IPC is enhanced to Rs. 25,000/- against each of the Appellants. 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 RI for 3 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/accused 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 view of the provisions contained in Section 437-A of 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