

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1449 of 2000**

- 1) Gulam Hyder S/o Gafur Ali, aged about 52 years,
- 2) Aziz Ali S/o Abdul Sattar, aged about 50 years
- 3) Anwarul Haq S/o Gafur Ali, aged about 27 years,
- 4) Abdul Rashid, S/o Majid Ali, Aged about 25 years
- 5) Ramjanui Hawq S/o Gafur Ali, Aged about 25 years
- 6) Samsul Haq S/o Azia Ali, aged about 30 years,

All are R/o Village Taragarh, Distt. Raigarh (M.P.) (Now Chhattisgarh)

---- Appellants

Versus

State of M.P. through Station House Officer, Lailunga, Distt. Raigarh (M.P) (Now State of Chhattisgarh).

---- Respondent

For Appellant	:	Mr. Manoj Sharma, Advocate
For Respondent	:	Mr. Sushil Sahu, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

19/11/2019

1. This appeal has been preferred against the judgment dated 02/05/2000 passed in Sessions Trial No. 53/1995 by the First Additional Sessions Judge, Raigarh, whereby the Appellants have been convicted under Sections 148, 329 read with 149 and 323 read with 149 of the Indian Penal Code and sentenced to undergo RI for 3 months, RI for 1 year with fine of Rs. 500/- and RI for 6 months, respectively, with default stipulation.
2. Facts of the case are that on 18/09/1994 the Appellants assaulted

Moh. Aamir and Vaizul with an intention to commit their murder. The incident was witnessed by Ghudaram (PW8), Neharsai and other witnesses. The matter was reported vide Ex.P-12. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges under Section 148, 307/149 alternatively 307, 325 and 323 of the IPC. Statement of witnesses under Section 161 of the Cr.P.C has been recorded. As many as 12 prosecution witnesses have been examined. No defence witness has been examined. Statements 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 307 read with 149, however, they have been convicted 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. He further submits that the Appellants have undergone about 24 days out of total jail sentence of 1 year, they have no criminal antecedent and they are facing the *lis* since 1994, 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 year, the Appellants have undergone about 24 days, they are facing the *lis* since 1994 and there is no criminal antecedent against them, 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.
8. Consequently, the appeal is partly allowed. The conviction of the Appellants under the aforementioned sections is affirmed and they are sentenced to the period already undergone by them. The fine sentence is affirmed.
9. It is reported that the Appellants/accused is 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