

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1984 of 2000

1. Shailesh Kumar Meshram, S/o Pal Meshram, aged 28 years, by Caste Christian, resident of Katora Talab, Post Thana Civil Lines, Raipur (MP) (Now CG)
2. Ramu @ Ram Singh, S/o Ghasi Ram Gond, aged 35 years, resident of Ambedkar Nagar, Katora Talab, Raipur (MP) (Now CG)

---- Appellants

Versus

1. State Of Madhya Pradesh (Now Chhattisgarh), Through the Police Chowki, Bastar, Police Station Jagdalpur, Distt. Bastar (CG)

---- Respondent

CRA No. 250 of 2008

1. Rajju @ Rajendra Verma S/o Late Neelkanth Verma, aged about 40 years, occupation Vehicle Driver, R/o Near Gandhi Chowk, Raja Talab, P.S. Civil Line, Raipur C.G. Vill. Address- Achholi, Post Kharora, Distt. Raipur C.G.

---- Appellant

Versus

1. State Of Chhattisgarh through Chowki, Bastar, Police Station, Jagdalpur, Distt. Bastar (CG)

---- Respondent

For Appellants	:	Shri Sushobhit Koshta and Shri Prakash Mishra, Advocates.
For Respondent/State	:	Shri Rajesh Singh, Dy. G.A. & Shri Santosh Bharat, P.L.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

11/07/2019

Since both these appeals filed under Section 374(2) of CrPC by the accused/appellants arise out of the same incident occurred on 3.2.1994 relating to Crime No.9/94 registered at Police Chowki-Bastar, they are being disposed of by this common judgment.

02. CrA No.1984/2000 has been filed by the accused/appellants Shailesh Kumar Meshram and Ramu @ Ram Singh against the judgment of conviction and order of sentence dated 19th July, 2000

passed by First Additional Sessions Judge, Bastar at Jagdalpur in ST No.264/94 whereby each of them has been convicted under Sections 364 & 307 of IPC and sentenced to undergo RI for seven years, fine of Rs.1000/- and RI for five years, fine of Rs.1000/- with default stipulations respectively.

03. CrA No.250/2008 has been filed by the accused/appellant Rajju @ Rajendra Verma against the judgment of conviction and order of sentence dated 17th January, 2007 passed by the same Court in the same sessions trial whereby he has also been convicted under Sections 364 & 307 of IPC and sentenced as above. Both the substantive jail sentences were directed to run concurrently.

04. Case of the prosecution, in brief, is that on the date of incident i.e. 3.2.1994 Head Constable Praveen Lal along with Dilip Singh, Constable, was going to arrest one accused in another case bearing Crime No.45/94 under Section 452/34 of IPC. While they were waiting at Bastar Chowk for arresting the said accused, at around 8 pm one vehicle 608 Model bearing No. MP 23D/3986 came from Jagdalpur side and stopped on the mid of the road. When driver of the said vehicle was going to the beetle shop, Praveen Lal called him out and enquired about the documents of the vehicle. Thereupon, the said driver replied as to who you are to ask for documents of the vehicle and that you have no jurisdiction at all, and further said that he would show the documents to the Station House Officer in the police station. Thereafter, the complainant Praveen Lal sat in the said vehicle for taking him to the police chowki. However, when Praveen Lal asked the driver to stop the vehicle in front of police chowki, he did not stop the

same and moved away speedily. Constable Dilip Singh had also boarded the vehicle from backside. Two more persons were also sitting in the said vehicle. On the way, one Ramu pushed Praveel Lal out of the moving vehicle with intent to commit his murder and on account of this, he suffered grievous injuries. FIR (Ex.P/9) was registered against all the accused under Sections 186, 364, 307, 34 of IPC. As per Ex.P/3 the complainant Praveen Lal suffered simple injuries – abrasion and contusion just below right knee. Constable Dilip Singh also suffered simple injuries in the said incident vide Ex.P/4. After completion of investigation, charge sheet was filed against the accused/appellants under Sections 186, 364, 323 & 307/34 of IPC.

05. So as to hold the accused persons guilty, the prosecution examined as many as 09 witnesses. Statements of the accused were also recorded under Section 313 of Cr.P.C. in which they denied the circumstances appearing against them in the prosecution case, pleaded innocence and false implication.

06. The trial Court after hearing counsel for the respective parties and considering the material available on record, by the impugned judgments while acquitting the accused/appellants of the charge under Section 353 of IPC, convicted and sentenced them as mentioned above.

07. Learned counsel for the appellants submit that on the date of incident complainant Praveen Lal was not on official duties and not wearing the uniform. The complainant himself boarded the vehicle forcibly and no kidnapping of the complainant was committed by any of the accused persons. Complainant Praveen Lal (PW-5) in para-2 of his

deposition has admitted that when he asked for the documents of the vehicle from the driver Rajju, the said driver refused to show him the documents and told that he would show the same to the Station House Officer only. Thereafter, the complainant boarded the vehicle voluntarily in which other two accused Ramu and Shailesh were also sitting. Thus, there is no kidnapping of the complainant committed by the accused persons. Further, looking to the nature of injuries i.e. simple, suffered by the complainant and the manner in which the incident occurred, it is evident that there was no intention on the part of the accused persons to commit murder of the complainant and they did not attempt to commit his murder. They submit that in the given facts and circumstances of the case and the evidence available on record, at the most offence under Section 323 of IPC is made out against the accused persons and since all the accused persons have already remained in jail for more than six months and also deposited the fine amount imposed by the trial Court, they may be released forthwith.

08. On the other hand, supporting the impugned judgment it has been argued by the State counsel that on the date of incident when the complainant tried to stop the vehicle, the accused Rajju pushed him out of the running vehicle which itself shows that intention on the part of the accused was to commit murder of the complainant. Further, despite request of the complainant, the accused persons did not stop the vehicle and moved away speedily, which further establishes that they are guilty of kidnapping of the complainant. As such, the trial Court was fully justified in convicting them under Sections 364 and 307 of IPC which needs no interference by this Court.

09. Heard learned counsel for the parties and perused the material available on record including the impugned judgments.

10. It is not disputed by the learned counsel for the parties that injuries caused to the complainant Praveen Lal in the said incident are simple in nature.

11. In this case, PW-6 Dilip Singh, PW-7 Sankra Prasad Tiwari and PW-8 Rakesh Kumar Mishra have not supported the prosecution case and have been declared hostile.

12. From close scrutiny of the evidence it is clear that the prosecution has successfully proved only the injuries i.e. abrasion and contusion below right knee, suffered by the complainant in the said incident which are simple in nature as per Ex.P/3 MLC report of the complainant, the evidence of the complainant Praveen Lal (PW-5) and that of Dr. JK Saxena (PW-2). As per evidence of the complainant, he himself boarded the vehicle of the accused for taking them to police station. As such, it is clear that none of the accused compelled or forced the complainant to sit in their vehicle and the complainant boarded the vehicle voluntarily. Hence the basic elements for attracting the offence under Section 364 of IPC are missing in this case. Likewise, as per evidence available on record, particularly the evidence of the complainant, when the complainant asked the accused persons to stop the vehicle, the driver of the vehicle i.e. accused Ram Singh drove away the same speedily and during this process, one of the accused namely Ramu pushed him out of the moving vehicle as a result of which he suffered abrasion and contusion below knee which

were found to be simple in nature. Thus, considering the overall facts and circumstances of the case giving rise to the above incident, it does not appear that the complainant was kidnapped by the accused persons or they attempted to commit his murder. However, the oral and documentary evidence available on record clearly establishes the guilt of the accused persons under Section 323/34 of IPC for voluntarily causing simple hurt to the complainant.

13. In the result, both the appeals are allowed in part. The impugned judgments are hereby set aside and the accused/appellants are acquitted of the charges under Sections 364 and 307 of IPC. However, each of them is convicted under Section 323/34 of IPC and sentenced to undergo RI for six months. Since from the record it is seen that all the accused persons have already served more than six months' jail sentence and are on bail, they are not required to surrender. However, their bail bonds shall continue for a period of six months from today in view of provisions of Section 437A of CrPC.

Sd/

(Gautam Chourdiya)

Judge