

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 586 of 2009

1. Mukund Ram, S/o Manglu, age 29 years,

2. Nirmal, S/o Manglu, age 27 years,

Both R/o Vill. Belar , PS Lohandiguda, Distt : Bastar, C.G.

---- Applicants

Versus

- State of Chhattisgarh, Through District Magistrate, Jagdalpur, Distt : Bastar, C.G.

---- Respondent

For Applicants	:	Shri Vikash Pandey, Adv.
For Respondent/State	:	Shri Anand Verma, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

01.03.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 25.11.2009 passed by the Third Additional Sessions Judge, Bastar, Jagdalpur, C.G. in Cr. Appeal No. 25/2009 whereby the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Bastar at Jagdalpur, vide its judgment dated 31.03.2009 in Cr. Case No. 330/2009 for the offence under Section 325/34 of the IPC and sentenced them to undergo RI for six months and to pay fine of Rs. 500/- to each, plus default stipulations.

2. Brief facts of the case are that, the complainant Nandlal lodged a report that on 01.10.99, he alongwith one Raithu was retruning to his

house from village Badanji, on the way Mukund(A-1) focused the torch upon him, on which, some altercation took place between them. Thereafter, Mukund(A-1) and Nirmal (A-2) assaulted him by rod and knife in which he sustained injuries. On this report, an offence under Section 341, 506-B and 325/34 of the IPC was registered against the applicants. After filing of the charge sheet, charges were framed against the accused/applicants under Sections 341, 506-B and 325/34 of the IPC.

3. So as to prove the guilt of the accused/applicants, the prosecution has examined 7 witnesses. Statements of the accused/applicants were also recorded under Section 313 of the Cr. P.C. in which they denied the charges leveled against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 31.03.2009, learned Magistrate has acquitted the accused/applicants of the charge under Sections 341, 506-B and convicted them under Section 325/34 of the IPC. This order was appealed by the applicants, which was affirmed by the appellate Court. Hence, this revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicants submits that he is not pressing this revision as 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 1999 and thereby more than 20 years have rolled by since then, they are aged about 50 years, the applicants have already remained in jail

for about twelve days and no useful purpose would be served in again sending them to jail. Therefore, it would be appropriate in the interest of justice if the sentence imposed on them may be reduced to the period already undergone by them.

7. Learned State counsel has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses including Dr. Virendra Thakur (PW-3), Complainant Nandlal (PW-4), Baliram (PW-5) and Dr. Govind Singh (PW-6), established the involvement of the accused/applicants in the crime in question. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicants under Section 325/34 of the IPC, being so they are hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 1999 and further that the applicants have already remained in jail for about twelve days, no useful purpose would be served in again sending them to jail.

10. In view of the above, the revision is partly allowed. While maintaining the conviction of the applicants, their sentence is reduced to the period already undergone by them. The applicants are reported to be on bail. Their bail bonds shall stand discharge.

Sd/-
(Rajani Dubey)
Judge