

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 21-2-2019****Delivered on 22-2-2019****CRIMINAL APPEAL No. 1055/2001**

(Arising out of judgment of conviction and order of sentence dated 12-10-2001 passed by Special Judge, Raipur CG constituted under the Scheduled castes and Scheduled Tribes (prevention of Atrocities) Act, 1989 (in brevity 'SCST Act') in Special Sessions Case No. 131/2000)

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1. Dongar son of Balaram (since deceased)
2. Umend son of Dongar aged 22 years
3. Deena son of Dongar aged 19 years

Appellants No. 2 and 3 residents of village Parsuli, Police Station Bagbahara, Tahsil and District Mahasamund (CG)

----Appellants**-Versus-**

State of Chhattisgarh through PS Bagbahara

----Respondent

For appellants	: Shri Suresh Tandan, Adv.
For State	: Smt. M. Asha, PL

Hon'ble Shri Sharad Kumar Gupta, Judge**CAV JUDGMENT**

1. In this criminal appeal the challenge levied is to the judgment of conviction and order of sentence dated 12-10-2001 passed by Special Judge, Raipur CG constituted under the Scheduled castes and Scheduled Tribes (prevention of Atrocities) Act, 1989 (in brevity 'SCST Act') in Special Sessions Case No. 131/2000 whereby and whereunder he convicted and sentenced the appellants as under :-

Appellant No. 1 Dongar (since deceased) and appellant No. 2 Umed

Sr. No.	Offence u/S.	Sentence
1.	341, IPC	SI for 1 month
2.	323, IPC	RI for 6 months + fine of Rs. 1,000/-, in default of fine RI for 1 month

Appellant No. 3 Deena

Sr. No.	Offence u/S.	Sentence
1.	341, IPC	SI for 1 month
2.	323, IPC	RI for 6 months + fine of Rs. 1,000/-, in default of fine RI for 1 month
3.	325, IPC	RI for 2 years + fine of Rs. 5,000/-, in default of payment of fine, RI for 5 months

All the substantive jail sentences have been directed to run concurrently.

2. In brief, case of the prosecution is that complainants Gangaram, Jeevandas, Jainlal, Anandram, Suminbai alias Sumedbai, Ratnibai are the members of scheduled caste. On 28-7-1999 at about 1 pm at village Parsuli appellants wrongfully restrained complainants Jeevandas, Jainlal, Gangaram and Ratnibai, caused injuries on head of complainant Jeevandas and Anandram by wooden club and iron rod, caused injuries on body of complainants Jainlal, Suminbai alias Sumedbai and Ratnibai by pointed iron rod, abused complainant Gangaram, Jeevandas, Jainlal, Anandram, Suminbai alias Sumedbai and Ratnibai in the name of their caste. After completing investigation, a charge sheet was filed against them. Trial Court framed the charges against them under Section 341, 307, 324, 323, of the Indian Penal Code (in brevity 'IPC') and Section 3(1)(x) of the SCST Act. After conclusion of the trial, Trial Court convicted and sentenced them as aforesaid, though trial Court acquitted them from the charge punishable under Section 307, 324 of IPC and Section 3(1)(x) of the SCST Act.

3. During the pendency of this appeal, appellant No. 1 Dongar has

died and his appeal stood abated. Hereinafter 'appellants' will be mentioned only for appellants No. 2 and 3.

4. Counsel for the appellants at the outset urged that he is not challenging their conviction rather he is challenging only the aforesaid period of jail sentences. He further submitted that the appellants have undergone jail sentence of about 92 days thus the period of RI awarded to the appellants may be reduced to the period already undergone by them.

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 Sections 325, IPC. The appellants have remained in jail for 92 days. About 18 years have passed after the incident. At the time of incident, appellant No. 2 Umend was aged 22 years, now he is of 40 years, appellant No. 3 Deena was 19 years old, now he is 37 years old. Now they are in mainstream of society. Sending them to jail would disturb their as well as their family members' life. Hence, no useful purpose would be served if they are sent to jail after 18 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] this Court is of the opinion that cause of justice would be sub-served, if jail sentence awarded by the trial Court to the appellants are reduced to the sentences for the period already undergone by them and fine sentence under Section 325, IPC may be suitable enhanced.

7. Consequently, the appeal is partly allowed. Conviction of

appellants is upheld. The jail sentences of appellant No. 2 Umend and appellant No. 3 Deena for the offences punishable under Section 341, 323, IPC of SI for 1 month and RI for six months respectively are reduced to the period already undergone by them. Their fine Sentence of Rs. 1,000/- with default clause under Section 323, IPC is also affirmed. The jail sentence of appellant No. 3 Deena for offence under Section 325, IPC, RI for 2 years is reduced to the period already undergone by him. However, fine amount of Rs. 5,000/- (Rupees five thousand) imposed upon him under this section is enhanced to Rs. 20,000/- (Rupees twenty thousands), in default of payment of fine, he shall further undergo RI for 6 months. The fine amount already deposited, if any, be adjusted in the fine sentence imposed by this order.

8. The order of disbursal passed by the trial Court is affirmed.

9. The appellant No. 3 Deena is granted two months' time from the date of this judgment for depositing the fine amount.

10. The appellants are reported to be on bail. Their bail bonds shall continue for a further period of six months as per requirement of Section 437-A, Cr.P.C.

Sd/-
(Sharad Kumar Gupta)
Judge