

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 525 of 2002**

Puranmal Godani S/o Mohal @ Hardashal Godani, Aged about 30 years, Sindhi R/o Chokhadia Para Near Durga Talkies, Rajnandgaon, P.S. basantpur, District Rajnandgaon (C.G.).

---- Appellant

Versus

State of Chhattigarh through Police of G.R.P., Raipur (C.G.).

---- Respondent

For Appellant	:	Ms. Savita Panjabi & Mr. Ajay Chandra, Advocate
For Respondent	:	Mr. Sushil Sahu, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

15/11/2019

1. This appeal has been preferred against the judgment dated 03/04/2002 passed in Sessions Trial No. 298/2000 by the Special Judge, (Atrocities) and Additional Sessions Judge, Raipur (C.G.), whereby the Appellant has been convicted under Section 146 of the Railways Act and Section 332/34 of the IPC and sentenced to undergo RI for 01 year with fine of Rs. 500 & RI for 03 years with fine of Rs. 2000/-, respectively, with default stipulations.
2. Facts of the case are that on 04/06/2000 at about 6:50 pm, Ramdhan Sahu (PW1), Head constable was on petrolling duty. At that time, he caught a boy who was trying to take the wheat from the railway wagon. When he was going to handover the body to the railway authority, the Appellant and two other persons interrupted and forced to leave the

boy. He refused to do so, then they beaten him by snatching bamboo stick from him. One of them also tried to press his neck. The matter was reported. After completion of investigation, a charge-sheet was filed before the trial Court. Trial Court framed the charges under Sections 146 & 147 of the Indian Railway Act and Section 333/34 of the IPC against all the accused persons. As many as 6 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has acquitted all the accused persons from the charge framed under Section 147 of the Indian Railway Act, however, the Appellant has been convicted and sentenced as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant 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 Appellant has undergone about 80 days out of total jail sentence of 3 years, he has no criminal antecedent and he is facing the *lis* since 2000, therefore, he prays that the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
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 3 years, the Appellant has undergone about 80 days, he is facing the *lis* since 2000 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 146 of the Railway Act & Section 332/34 of the IPC is enhanced to Rs. 5,000/- & 10,000/-, respectively. Ordered accordingly. The enhanced amount of fine shall be payable within 1 month from the date of receipt of a copy of this order. In default of payment, the Appellant shall be liable to undergo SI for 3 months and 6 months, respectively. 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 Appellant/accused is on bail. His bail bond is 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