

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRA No. 1000/2002**Reserved on 8-3-2019Pronounced on 11-3-2019

(Arising out of judgment of conviction and order of sentence dated 30-8-2002 passed by 2nd Additional Sessions Judge, Baloda Bazar, Distt. Raipur (C.G.) in S.T. No. 85/2002)

1. Santosh Kumar alias Ghurghuri, S/o. Shri Firatram Tamboli, aged about 30 years, R/o. Village Katangi, Police Station Kasdol, District Raipur (CG)
2. Rajendra Kumar S/o. Shri Firatram Tamboli, aged about 26 years, R/o. Village Katangi, Police Station Kasdol, District Raipur (CG).

---Appellants**VERSUS**

State of Chhattisgarh, through Police Station Kasdol, District Raipur (CG)

For appellants	: Mr. Manoj Paranjpe and Shri Prasoon Agrawal, Adv.
For respondent/State	: Mr. Vikram Dixit, Govt. Adv.

Hon'ble Shri Sharad Kumar Gupta, Judge**C.A.V. JUDGMENT**

1. In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 30-8-2002 passed by 2nd Additional Sessions Judge, Baloda Bazar, Distt. Raipur (C.G.) in S.T. No. 85/2002 whereby and whereunder he convicted and sentenced each of the appellants as under :-

Offence u/S.	RI for	Fine Rs.	In default of payment of fine
324/34, IPC	3 years	3,000/-	RI for 6 months

2. In brief the prosecution story is that on 7-7-2001 at about 15.30 hour at village Katangi, appellants and co-accused Rajesh Kumar in furtherance of common intention caused simple injuries to

complainants Heeraratan, Dinesh Kumar and Manharan Lal. On very day a Dehati Nalishi was lodged in PS Kasdol. After completion of investigation, a charge sheet was filed against the appellants before committal court and a charge sheet was also filed against co-accused Rajesh Kumar before the Juvenile Justice Board. After completion of trial, trial Court convicted and sentenced them as aforesaid.

3. Being aggrieved, appellants preferred this Criminal Appeal.
4. Counsel for the appellants at the outset urged that he is not challenging the conviction of the appellants rather he is challenging only the aforesaid period of sentence RI for 3 years for the offence punishable u/s 324/34 IPC. He further submitted that appellants may be sentenced to the period already undergone by them.
5. Counsel for the State argued that aforesaid RI is just and proper and does not call for any interference by this Court.
6. At the time of the incident no minimum imprisonment was provided for the offence punishable u/s 324 IPC. About 18 years have passed after the incident. At the time of incident appellant No. 1 Santosh Kumar Ghurghuri was 30 years old, now he is aged about 48 years. Appellant No. 2 Rajendra Kumar was 26 years old, now he is 44 years old. Now they are in main stream 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 subserved if RI for 3 years is reduced to the period already undergone by them and fine is suitably enhanced.

7. Consequently the appeal is partly allowed. The sentence of each of the appellants for the offence punishable u/s 324/34 IPC, RI for 3 years is reduced to the period already under gone by them and fine of each of the appellants of Rs. 3,000/- is enhanced to Rs. 20,000/- (Rs. Twenty Thousand only), in default of payment of fine to further under go RI imprisonment for 6 months. The fine amount if already deposited be adjusted in fine sentence imposed by this order. Out of the fine amount Rs. 40,000/- if deposited, Rs. 10,000/- (Rs. Ten Thousand only) be given to complainant Heeraratan, Rs. 10,000/- (Rs. Ten Thousand only) be given to the complainant Manharan Lal and Rs. 10,000/- (Rs. Ten Thousand only) be given to the complainant Dinesh Kumar as compensation after the expiration of prescribed period of the further legal remedy available to the parties.
8. The appellants are granted two months' time from the date of this judgment for depositing the fine amount.
9. The appellants are reported to be on bail. Their bail and bonds shall continue as per requirement of Section 437-A of the Cr.P.C.

Sd/-
(Sharad Kumar Gupta)
Judge