

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1001 of 2002**

Gayaprasad S/o Shivcharan Kesari (Sonkar), aged about 40 years R/o Opposite Guru Nanak School, Dayalband, Police Station City Kotwali, Distt. Bilaspur (C.G.)

---- Appellant

Versus

State of Chhattigarh through Station House Officer, City Kotwali, Distt. Bilaspur (C.G.).

---- Respondent

For Appellant	:	Mr. Rajkumar Pali, Advocate
For Respondent	:	Ms. Smita Ghai, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

07/11/2019

1. This appeal has been preferred against the judgment dated 27/08/2002 passed in Sessions Trial No. 151/1997 by the First Additional Sessions Judge, Bilaspur (C.G.), whereby the Appellant has been convicted under Sections 324 and 324 of the IPC and sentenced to undergo RI for 2 years and RI for 1 year.
2. Facts of the case are that on 17/07/1996 at about 2:00 pm, when Complainant Jaichandra visited the house of his brother-in-law for attending the ceremony of "Barihi", the Appellant had dispute with the Complainant and the Appellant assaulted him with Bhujali and abused him. The Complainant received injuries on his head. His wife got also injured while scuffling. FIR has been lodged on the same day and on

that basis offence has been registered. After completion of investigation, a charge-sheet under Section 307 and 324 of the IPC has been submitted. Charges has been framed. As many as 15 prosecution witnesses have been examined. One 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 the Appellant from the charge framed under Section 307 of the IPC, 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 5 days during trial out of total jail sentence of 2 years, he has no criminal antecedent, he is facing the *lis* since 1996 i.e. more than 26 years and no fruitful purpose would be served, if he again be sent to jail, 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 2 years, the Appellant has undergone about 5 days, he is facing the *lis* since 1996 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, however, he is sentenced with fine of Rs. 5000/- and Rs. 5000/- under each offence.. Ordered accordingly. The fine amount imposed today shall be payable within 2 months from the date of receipt of a copy of this order. In default of payment, the Appellant shall be liable to undergo RI for 3 months and 3 months under each offence.
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