

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 84 of 2010

1. Shivkumar Yadav, S/o Gendlal Yadav, aged about 25 years,
2. Anshuram Gond S/o Thukelram Gond, aged about 23 years,
3. Omprakash Gond S/o Indal Gond, aged about 22 years,
4. Kartikm Gond S/o Ratan Gond, aged about 45 years,
5. Deonath Gond S/o Bhanwarsingh Gond, aged about 35 years,
6. Sohan Yadav, S/o Gendlal Yadav, aged about 24 years,

All R/o Vill. Boirgaon, Police Station – Mainpur, District – Raipur,
Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh, Through District Magistrate, District – Raipur,
Chhattisgarh

---- Respondent

For Applicants	:	Shri Shivendu Pandya, Adv.
For Respondent/State	:	Shri Wasim Miyan, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

29.07.2019

1. The present revision arises out of the judgment of conviction and order of sentence dated 30.01.2010 passed by the Learned Additional Session Judge, Gariyabandh, District – Raipur, in Cr. Appeal No. 40/2009, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Gariyabandh, District – Raipur,

vide its judgment dated 08.05.2009 in Cr. Case No. 1206/2006 for the offence under Section 452 of the IPC and sentenced them to undergo RI for three years and to pay fine of Rs.3,000/- and Section 325 of the IPC and sentenced them to undergo RI for three years and to pay fine of Rs.3000/- to each, respectively, with default stipulation.

2. Brief facts of the case are that on the date of incident i.e. 25.07.2006, Ghanshyam Nirmalkar and his friend Kartik Gond were consuming liquor along with meal. During their conversation, they started fighting with each other. The father-in-law of the Ghanshyam intervened between them. Thereafter, Kartik Ram went to his house, after some time, he came back to the house of Ghanshyam along with the other co-accused and started assaulting Ghanshyam by hands and fist and threatened him to life. The FIR was lodged against the accused/applicants. After filing of charge-sheet, charges were framed against the accused/applicants under Sections 452 and 325 of the IPC.

3. So as to prove the guilt of the accused/applicants, the prosecution has examined 08 witnesses. Statement 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 08.05.2009, learned Judicial Magistrate First Class has convicted the applicants under Section 452 of the IPC and sentenced them to undergo RI for three years and to pay fine of Rs.3,000/- to each, and Section 325 of the IPC and sentenced them to undergo RI for three years and to pay fine of Rs.3000/- to each,

respectively, with default stipulation. This order was appealed by the applicants and in the appeal, learned appellate Court has affirmed the conviction and sentence of the applicants. Hence, the present 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 2006 and thereby more than 13 years have rolled by since then, they are aged about 30 years, the applicants have already remained in jail for about 15 days and no useful purpose would be served in again sending them to jail. Therefore, it would be 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 preposition.

8. Having gone through the material on record and the evidence of the witnesses including Ku. Sarita Bai (PW-1), Kanwal Singh(PW-2), Dr. K. C. Urao (PW-7) and I.R. Gaikwad(PW-8) establishes the involvement of the accused/applicants in crime in question, this Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Sections 452 and 325 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 2006 and the applicant has already remained in jail for about 15 days and further considering the fact that the applicants have already faced a prolonged trial and suffered trauma of uncertainty arising out of their conviction by the Sessions Court, the revision is partly allowed and their sentence is liable to be reduced to the period already undergone by them. Conviction part of the impugned judgment is maintained.

10. The applicants are on bail. Their bail bond shall stand discharged.

11. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
JUDGE