

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRIMINAL APPEAL No. 647/2003**

(Arising out of judgment of conviction and order of sentence dated 11-6-2003 passed by Special Judge (SCST Act), Bastar at Jagdalpur (CG) in ST No. 15/2003)

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Madvi Handa @ Oyami Handa, S/o. Nanda, aged 21 years, R/o. Ful Bagadi, Damapara, P.S. Gadiras, distt. Dantewada CG

----Appellant**-Versus-**

State of Chhattisgarh through Distt. Magistrate, Dantewada (CG)

----Respondent

For appellant : Shri Harshal Chouhan, Adv.

For State : Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Sharad Kumar Gupta, Judge**ORAL JUDGMENT****10-1-2019**

1. In compliance the order dated 2-11-2018, the warrant of arrest was issued and the appellant Mandvi Handa alias Oyami Handa, has been produced in custody before this Court by Constable No. 823 Ramdayal Netam, P.S. Phulbagadi, Distt. Sukma (CG).

2. In this criminal appeal the challenge levied is to the judgment of conviction and order of sentence dated 11-6-2003 passed by Special Judge (SCST Act), Bastar at Jagdalpur (CG) in ST No. 15/2003 whereby and whereunder he convicted the

appellant for the offence punishable u/s 324 of the Indian Penal Code (in short “the IPC”) and sentenced him to undergo RI for 1 year and 6 months and to pay a fine of Rs. 700/-, in default of payment of fine, to further under RI for 2 months.

3. In brief, case of the prosecution is that on 17-10-2002 at about 3 pm at village Phulbagadi, Damapara, appellant caused blow by arrow to the chest of complainant Oyami Raja, who bent himself as a result of which the arrow hit his left rib. After completion of the investigation a charge sheet was filed against the appellant. The Trial Court framed the charge against the appellant u/s 307, IPC. After conclusion of the trial, Trial Court convicted and sentenced the appellant as aforesaid, instead of Section 307, IPC.

4. Counsel for the appellant at the outset urged that he is not challenging the conviction of the appellant rather he is challenging only the aforesaid period of sentence of RI of 1 year and 6 months. He further submitted that the appellant has already undergone about 8 months RI, thus the period of RI for 1 years and six months may be reduced to the period undergone by him.
5. The State Counsel 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 Section 324, IPC. The appellant has remained in jail for 8 months. About 15 years have passed after the incident. At the time of incident, appellant was

aged 18 years, now he is 33 years of age. Now he is in mainstream of society. Sending him jail would disturb his as well as his family members' life. Hence, no useful purpose would be served if he is sent to jail after 15 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 RI of 1 year and 6 months is reduced to the sentence for the period already undergone by him with fine sentence.

7. Consequently, the appeal is partly allowed. The sentence of RI for 1 year and 6 months of the appellant for offence under Section 324, IPC, is reduced to the period already undergone by him and the fine sentence and default clause awarded by the trial Court is affirmed.
8. The appellant is in custody. He be set at liberty forthwith if not required in any other case. His bail and bond shall continue for a further period of six months as per requirement of Section 437-A, Cr.P.C.

Sd/-
(Sharad Kumar Gupta)
 Judge