

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 343 of 2004

1. Phatte S/o. Tangu Satnami, Aged about 64 years,
2. Latel S/o. Tangu Satnami, Aged about 66 years, (Deleted)
3. Sukhiram S/o. Tangu Satnami, Aged about 48 years,
4. Shyam Das S/o. Tangu Satnami, Aged about 44 years,
5. Phaguram S/o. Baisakhu, Aged about 53 years (Deleted)

All are resident of village Sumedha, P.S. Bankimongra, District Korba (C.G.)

Versus

State of Chhattisgarh Through Station House Officer, Police Station Bankimongra, District Korba (C.G.)

For the Applicant : Smt. Meena Shastri, Advocate

For the Respondent : Shri Himanshu Sharma, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

02.04.2019

1. This revision is directed against the judgment dated 26.06.2004 passed by the Additional Sessions Judge, Bilaspur in Criminal Appeal No. 129 of 2001, affirming the judgment of conviction and order of sentence dated 17.07.2001 passed by the Judicial Magistrate, First Class, Katghora in Criminal Case No. 2649/1997, convicting and sentencing the accused/applicants as under:-

Conviction	Sentence
326/149 IPC	R.I. for three years and to pay fine of Rs. 5000/-
148/149 IPC	Fine amount of Rs. 5000/-
323/149 IPC	Fine amount of Rs. 5000/-
	With default stipulations.

2. Facts of the case, in brief, are that complainant Dukhiram (PW-2) lodged the FIR (Ex.P-11) in Police Station Bankimongra, alleging that on 01.09.1992, an altercation took place regarding taking Ganpati Chanda on the occasion of Ganesh Utsav. Son of complainant Shatrughan refused to give Ganpati Chanda on this Shatrughan, the son of Applicant No.1 abused him and on the next day, i.e. on 02.09.1992 the accused persons constituted an unlawful assembly with common object of the assembly, caused hurt to the members of complainant Dukhiram by iron pipe and lathi. Shyamdas was having iron pipe by which he gave blows on head, legs of Dukhiram and other members were also received injuries on their body. On the basis of this report, police registered the case at crime No. 113/1992 for commission of offence under Sections 147, 148, 149, 323, 325 and 294 IPC. After completion of investigation, charge sheet was filed against them and charge was framed accordingly.

3. Learned Magistrate having perused the material before it convicted the accused/applicants under Sections 326/149, 148/149 and 323/149 IPC and sentenced them as above, which on appeal has been affirmed by the judgment impugned. Hence, this revision.

4. Counsel for the applicant/accused does not assail the conviction part of the judgment impugned and his only request is that looking to the incident being quite old and also considering the fact that they have remained under detention of 15 days, the jail sentence imposed on them may be reduced to the period already undergone and thereby protect their well settled family life from being up-rooted at this stage.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. Heard the State counsel and perused the evidence on record.

7. Having gone through the material on record in particular the evidence of PW-1, PW-2, PW-3, PW-4, PW-5 PW-6 and PW-8, clearly indicating the involvement the applicants in the crime in question where they caused injuries to the complainants party. Evidence of PW-11 - the doctor who medically examined complainants Dukhiram, Bahoran, Punaibai, Masatram and Lachhiram and gave his report under Ex.P-1 to Ex.P-5 shows that he noticed lacerated wound in the sizes 4x3 cm near the left knee, lacerated wound over the eyebrow and abrasion in the size of $\frac{1}{2} \times \frac{1}{2}$ cm and contusion in the size of 4x3 on complainant Dukhi. Fractures found in the different body parts of complainant Bahoran. Lacerated wound in the size of $2 \times \frac{1}{2}$ cm on the upper part of leg, lacerated wound in the size of $\frac{1}{2} \times \frac{1}{2}$ cm on complainant Punaibai. Contusion in the size of 0x4 cm on

complainant Masatram. Contusion in the size of 6x4 cm on left leg of complainant Lachhiram and he was complaining pain on both his legs. Even the radiologist vide his report vide Ex. P-6 to Ex.P-13, has noticed fractures on the different parts of the body of complainants Dukhiram, Bahoran, Punaibai, Masatram and Lachhiram. Seizure witnesses have also admitted his signature on the seizure memo Ex. P-15. Overall evidence thus establishes that on account of trivial dispute picked up first by the applicants himself, he opened an assault on the victim causing injuries referred to above by a hard blunt object and therefore, their conviction under Sections 326/149, 148/149 and 323/149 IPC are maintained.

8. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 27 years ago and the applicants have already remained in jail for a period of 15 days and deposited fine amount imposed on them, in my opinion, no useful purpose is going to be served in again sending them to jail. Accordingly, their sentence is reduced to the period already undergone by them. However, the sentence of fine under section 326/149 IPC is enhanced from Rs. 5000/- each to Rs. 6000/- each.

9. With the above, the revision stands allowed in part.

Sd/-

(Vimla Singh Kapoor)
JUDGE