

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 641 of 2008

1. Dhaniram son of Gendram Rajwar, aged about 41 years,
2. Charan @ Ramcharan son of Mansai Rajwar @ Vitthal, aged about 30 years,
3. Chhatrapal son of Gendram Rajwar, aged about 36 years,
All are resident of Village Nakna, P.S. & Tehsil Ramanujnagar,
District Sarguja (CG)
4. Surendra son of Baijnath Rajwar, aged about 25 years, Resident of
Village Sarbhoka, Police Station Patna, District Korea (CG)

---- Applicants

Versus

State of Chhattisgarh through Police Station Ramanujnagar, District
Sarguja.

---- Respondent

For Applicants	: Smt. Neha Verma, Advocate
For State/Respondent	: Shri Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

02/04/2019

On 22.04.2002 FIR (Ex.P-1) was lodged by Moharlal (PW-1) stating that on that day when his son was keeping watch on the cucumber crop standing in his field, the accused/applicants came there and asked for cucumbers. While persisting their demand, they also threatened his son to ravage entire crop if he did not fulfill their demand. On this, he reached home and informed his father (PW-1) about the act of the applicants. Thereupon, PW-1 along with his mother and brother got back to the field and objected to the act of the accused/applicants but instead of heeding to his words they started using filthy abuses at them and also opened an assault with the help of clubs carried with them. After medical examination of the victims, the *challan* was submitted followed by framing of charge under Sections 447, 342, 294, 506-B and 323/34 IPC. Learned trial Court vide its judgment dated 25.08.2008 passed in Criminal Case 144/2008 held all the accused/applicants guilty under the same sections

for which the charge was framed and imposed the sentence of various descriptions. However in appeal lower Appellate Court acquitted the accused/applicants under all the sections except 323 against accused/applicant No.3 – Chhatarpal and 323/34 against the remaining ones. Hence this revision.

2. Counsel for the accused/applicants submits that though the evidence adduced by the prosecution is not conclusive yet the Court below has unnecessarily held them guilty under Sections 323 and 323/34 IPC which is not in accordance with the principles of law. State counsel however supports the judgment impugned.

3. Having seen the evidence of PW-1 – the lodger of FIR and his brother Ramjeet (PW-3) it is apparent that on the fateful day when complainant (PW-1) objected to the act of the accused/applicants of ravaging cucumber crop of his field, the accused/applicants lost their temper, started abusing and also resorted to the assault like activities with the help of club carried with them. The doctor (PW-5) who medically examined the victims has found injuries with swelling on the right knee and abrasion on left thigh of the PW-3; swelling on right hand of PW-2; swelling on back side of the head, right elbow and right leg of PW-1 was noticed by him vide report Exhibits P-5, P-6 and P-8 respectively. He has also opined that the injuries to all the victims could have been caused by hard and blunt object. Thus there is ample evidence to prove the guilt of accused – Chhatarpal under Section 323 and that of Dhaniram, Charan @ Ramcharan and Surendra under Section 323/34 IPC. No error in the conviction part of the judgment impugned is visible to this Court. It is accordingly maintained.

4. As regards sentence, keeping in mind the fact that the accused/applicants have been facing prosecution for last many year as the incident had taken place in the year 2002 and further not being ignorant of the fact

that they all have remained in jail for about a week, no useful purpose is going to be served in further dispatching them to jail after such a long lapse of time. Accordingly the sentence imposed on them is reduced to the period already undergone.

5. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay