

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 302 of 2008

- Hariprasad Say, S/o. Late Shivnarayan Say, Aged about 44 years, Caste Routiya, R/o. Village Bokitukutoli, Tashil Jashpur, Tahsil Jashpur (CG)

---- Appellant

Versus

- State Of Chhattisgarh through Station House Officer, Jashpur Nagar, District Jashpur CG

---- Respondent

For Appellant	: Smt. Hamida Siddiqui, Advocate
For Respondent/State	: Shri Neeraj Mehta, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

27/02/2019

The present revision arises out of the impugned order and judgment dated 02.04.2008 passed by the Sessions Judge, Jashpur in Cr. Appeal No. 02/2008 whereby the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Chief Judicial Magistrate, Jashpur vide its judgment dated 18.01.2008 in Cr. Case No. 1046/2003 for the offence under Section 324 IPC and sentenced him to undergo RI for three months and to pay fine of Rs. 300/- plus default stipulation.

2. Brief facts of the case are that there was a dispute between the accused and the complainant regarding the pathway. On 13.09.03, applicant closed the pathway by putting fence and the next morning when the complainant came to know, he asked the applicant to

remove the fence. Upon this, the applicant, out of anger came and assaulted the complainant with axe as a result of which he sustained injuries. FIR (Ex.P-5) was lodged against the accused/applicant for the offence under Section 324 IPC. After completion of investigation, charges were framed against the accused/applicant under Section 324 IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 4 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 18.01.08, learned Magistrate has convicted the accused/applicant for the offence under Section 324 IPC and has sentenced to undergo RI for three months with fine of Rs. 300/- plus default stipulation. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing the 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 2003 and thereby more than 16 years have rolled by since then, he is aged about 60 years, the applicant has already remained in jail for

about one month, no useful purpose would be served in again sending him to jail, therefore it would be in the interest of justice if the sentence imposed on him is reduced to the period already undergone by him. To this, counsel for the State has no serious objection.

7. In view of above, the fact that the incident had taken place in the year 2003 and further that the applicant has already remained in jail for about one month, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of one month, his sentence is reduced to the period already undergone by him.

8. Revision thus partly succeeds.

Sd/-

(Rajani Dubey)
Judge