

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 67 of 2009**

1. Komal Ram S/o Hagru Ram, aged about 47 years, By Caste-Sonal, R/o Near District Hospital, Durg, District Durg. (C.G.)
2. Ghana Ram S/o Hagru Ram, aged about 28 years, By Caste-Sonal, R/o Nipani, Police Station, Balod, District Durg (C.G.)
3. Prabhu Ram, S/o Hagru Ram, Aged about 33 years, By Caste-Sonar, Contractor Colony, Supela, District Durg (C.G.) (applicant has died on 01.07.2009 and his name has been deleted as per the order dated 12.06.2013)

All are permanent Resident of Village Nipani, Police Station Balod, District Durg (C.G.)

---- Applicants

Versus

- State of Chhattisgarh, through the Police Station Balod, District Durg (C.G.)

---- Respondent

For Appellants	:	Smt. Sareen Khan, Advocate from Legal Aid
For Respondent/State	:	Shri Anil Tripathi, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

12.09.2019

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 21.11.2008 passed by the Additional Sessions Judge Balod, District Durg in Cr. Appeal No. 23/2008 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Balod, vide its impugned judgment dated 29.01.2008 in Criminal Case No. 66/2007 for the offence under Section 323 of IPC and sentenced them to undergo R.I. for 6 months with fine of Rs. 500/- each, plus default stipulation.

2. Brief facts of the case are that on 17.08.2004, when the complainant Nakul Ram was sitting in front of the house of the Ramotin Sahu, applicants came there and started assaulting, hurling abuses on applicant and threatened him for dire consequences. Based on this, after completion of investigation, charge-sheet has been filed and charges were framed under Section 294, 325, 506-B of IPC against the applicants.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 16 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 29.01.2008, learned Judicial Magistrate First Class has acquitted the applicants of the charges under Sections 294 & 506-B of IPC and convicted and sentenced them for the offence punishable under Section 323 of IPC and sentenced them to undergo R.I. for 6 months and to pay fine of Rs. 500/- each, plus default stipulation. This order was appealed by the applicants and in the appeal, learned Appellate Court has confirmed the conviction and sentence of the appellants. Hence, the present revision.

5. Counsel for the applicants submits that they are not pressing the revision so 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 2008, and thereby more than 12 years have rolled by since then. Applicants Komal Ram and Ghana Ram are aged about 60 years and 40 years respectively. The applicants have already remained in jail for two and a half months, and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them.

6. Learned counsel for the State has no objection to this

preposition.

7. Having gone through the material on record and the evidence of the witnesses Nakul Ram (PW-1), Samant Kumar (PW-2), Mahesh Kumar (PW-3) Dr. R.K. Gore (PW-6), Dr. Annapurna (PW-8), D.r G. Kumar (PW-9), Dr. Subodh Hirna (PW-11), J.N. Giri (PW-14), Narayan Oti (PW-15) and Patiram (PW-16) involvement of the accused/applicants in the crime in question stands proved beyond reasonable doubt. Thus, this Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the appellants under Section 323 of IPC.

8. As regards sentence, keeping in view the facts that incident had taken place in the year 2008, and further that the appellants had already remained in jail for two and a half months, therefore, their sentence is liable to be reduced to the period already undergone by them.

9. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the appellants, they are sentenced to the period already undergone by them.

Sd/-
(Rajani Dubey)
JUDGE