

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 362 of 2008

- Parmeshwar Ram, S/o Bechanu Ram, aged about 23 years, R/o Village – Lota, P.S. & Tahsil – Bagicha, District – Jashpur, C.G.

---- Applicant

Versus

- State of Chhattisgarh, Through P.S. Bagicha, District – Jashpur, C.G.

---- Respondent

For Applicant	:	Shri Ram Kumar Tiwari, Adv.
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

29.03.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 16.05.2008 passed by the Sessions Judge, Jashpur, C.G. in Cr. Appeal No. 06/2008, whereby the learned appellate Court below has confirmed the conviction and sentence of the applicant as awarded by the learned Judicial Magistrate First Class, Bagicha, District – Jashpur, vide its judgment dated 20.03.2008 in Cr. Case No. 569/2008, for the offence under Section 323 of the IPC and sentenced him to pay fine of Rs. 500/-, and under Section 324 of the IPC, sentenced him to undergo RI for six months and to pay fine of Rs. 500/-, respectively plus default stipulations.

2. Brief facts of the case are that on 03.09.2006 at about 9.15 a.m., the applicant along with three other co-accused persons committed maar-peat with complainant Yogesh and Jhanduram with club and

tangi. The complainant lodged FIR against the accused persons. After completion of investigation, charge-sheet was filed and charges were framed against the accused/applicant under Sections 323 and 324 of the IPC by the trial Court.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 10 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 innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 20.03.2008, learned Judicial Magistrate has convicted the accused/applicant under Sections 323 and 324 of the IPC and sentenced him to pay fine of Rs. 500/- to undergo RI for six months with fine of Rs. 500/-, plus default stipulations respectively. 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 this 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 2006 and thereby more than 13 years have rolled by since then, he is aged about 40 years, the applicant has already remained in jail for about 25 days and no useful purpose would be served in again sending him to jail. Therefore, it would be appropriate in the interest of justice if

the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses including Yogesh Kumar Yadav (PW-1), Jhandu (PW-2), Ketki Bai (PW-3), Ram Dhani (PW-4) Hira Ram (PW-5) and Dr. Smt. V. Bakhla (PW-6), established the involvement of the accused/applicant in the crime in question. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Sections 323 and 324 of the IPC, being so it is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2006 and further that the applicant has already remained in jail for about 25 days, no useful purpose would be served in again sending him to jail.

10. In view of the above, the revision is partly allowed. While maintaining the conviction of the applicant, his jail sentence is reduced to the period already undergone by him. The applicant is reported to be on bail. His bail bond shall stand discharge.

Sd/-
(Rajani Dubey)
Judge