

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 462 of 2008

1. Narmada S/o. Fusaku Sahu, Aged 42 years,
2. Fanit S/o. Fusaku Sahu, Aged 35 years,
3. Biran Ram S/o. Fusaku Sahu, Aged 30 years,
4. Pursottam S/o. Fusaku Sahu, Aged 28 years,

All resident of village Khairjhioti, through Police Station Kunda,
District Kabirdham (C.G.)

---- Applicants

Versus

State of Chhattisgarh Through Police Station Kunda, District
Kabirdham (C.G.)

---- Respondent

For Applicants : Mr. Akhtar Hussain, Advocate.

For Respondent No.1 : Mr. Aman Kesharwani, P L

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 30.04.2019

This revision is directed against the judgment dated 10.07.2008 passed by the Sessions Judge, Kabirdham (Kawardha) (C.G.), in Criminal Appeal No. 09 of 2008, affirming the judgment of conviction and order of sentence dated 21.01.2008 passed by the Judicial Magistrate First Class Pandariya, in Criminal Case No. 301/2007, convicting the accused/applicants under Sections 294, 324/34 and 325/34 IPC

and sentencing them to pay fine of Rs. 200/- u/s 294 IPC, RI for 3 months and to pay fine of Rs. 500/- u/s. 323/34 IPC, RI for 6 months and to pay fine of Rs. 1000/- u/s 325/34 IPC plus default stipulations.

2. Facts of the case, in short, are that on 11.11.2002 at about 9.30 AM, when complainant Maniram was fencing his courtyard at that time his brother Narmada along with Fanit, Biran and Purushottam came there and abused him and also Lakhanlal in connection with fencing the courtyard. Applicant No.1 Narmada assaulted Lakhan with *lathi* and threatened to complainant Maniram and assaulted on his different part of his body and he received injuries on his left leg, thigh, knee and wrist. Complainant lodged the report (FIR- Ex.P-1) in the Police Station Kunda against the applicants. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicants.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicants under Section 294, 324/34 and 325/34 IPC. The findings recorded by the trial Court have subsequently been affirmed by the lower appellate court. Hence, this revision.

4. Learned counsel for the applicants submits that the judgment of conviction and order of sentence passed by both the Courts below is arbitrary, illegal and contrary to the law. He

submits that the Courts below failed to see that there is contradictions and omissions in the evidence of the prosecution witnesses. He submits that the both the Courts below failed to see that there is previous enmity between the complainant and the applicants for the partition of property. He further submits that the conviction of the applicants is based on surmises and conjectures, therefore, he prays for discharge of the applicants from the charges levelled against them. State counsel however, supports the findings recorded by the both the Courts below.

5. Having heard counsel for the parties and perused the material available on record including the evidence of PW-1 who proved the FIR (Ex.P-1) and further looking to the evidence of the important witness Rukmani (PW-2) who saw the incident, medical report (Ex.P-3) and x-ray reports (Ex.P-4) proved by Dr. P.L. Kurre (P.W.-4), it is proved that the applicants voluntarily caused grievous hurt to Maniram and simple injuries to victim Lakhan. The injury sustained by victim Maniram (PW-1) is proved by medical evidence by (PW-3). The evidence referred to above, thus makes it clear, that the applicants had voluntarily inflicted grievous injuries to Maniram (PW-1) and simple ones to Lakhan. Even, the seizure of bamboo sticks under Ex.P-7 to Ex.P-10 made on the memorandum of accused/applicants fortifies the inflection of injuries to PW-1 and Lakhan. The defences has not brought on record to rebut the evidence collected by the prosecution, thus, this Court has no hesitation to affirm the well reasoned findings

recorded by the Courts below in particular the conviction part thereof. Hence, the conviction of the accused/applicants is hereby maintained.

6. As regards sentence, keeping in view the fact that the incident had taken place in the year 2002, that the accused/applicants have already remained in jail for a period of about 07 days and further that by now they must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on them to the period already undergone.

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

Sd/-

(Vimla Singh Kapoor)

JUDGE