

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 780 of 2008**

- Nansai, S/o Patra Ram Uraon, Aged About 20 Years, R/o Village Katima, Police Station- Kkushmi, District- Surguja C.G.

---- Applicant

Versus

- State of Chhattisgarh, Through: District Magistrate Ambikapur, District- Surguja C.G.

---- Respondent

For Applicant	:	Mr. Ajay Mishra, Advocate
For Respondent/State	:	Ms. Reena Singh, P.L.

Hon'ble Smt. Justice Rajani DubeyOrder On Board**27.09.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 28/11/2008 passed by 4th Additional Sessions Judge (F.T.C.) Ambikapur District- Surguja, in Cr. Appeal No. 152/2007 whereby, appellate Court below while acquitting the applicant of the charge under Section 506-B of IPC has confirmed the conviction of the applicant as awarded by the learned Judicial Magistrate First Class, Ambikapur, District Surguja vide its judgment dated 06.11.2007 in Criminal Appeal No. 618/2005 for the offence under Section 325 of IPC sentencing him to undergo SI for six months with fine of Rs. 500/- and for the offence under Section 323 of IPC sentencing him for fine of Rs. 400/- with default.

2. Brief facts of the case are that on 27.07.2002 at about 8 A.M. the complainant who was cultivating in his own land and some village persons were also working there namely Nanku ram, Mahesh, Roopni, Punnu Ram in meanwhile the applicant/ accused came there and assaulted complainant with spade thereafter complainant sustained grievous injuries on his body parts then applicant also assaulted Pannu

Uraon and he also sustained grievous injury on his waist. On this report, offence has been registered against the applicant. After completion of investigation, charge-sheet was filed and charges were framed against the applicant under Sections 325, 323 of IPC by the trial Court.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 08 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide judgment of conviction and order of sentence dated 06.11.2007, learned Judicial Magistrate has convicted and sentenced the applicant for the offence under Sections 325, 323 of IPC sentencing him to undergo SI for six years with fine of Rs. 500/- and fine of Rs. 400/- with default. This order was appealed by the applicant and in the appeal, learned Appellate Court acquitted him of the offence under Section 506-B of IPC and affirmed the conviction and sentence of the applicant under Sections 325, 323 of IPC. Hence, the present revision.

5. Heard learned 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 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 2002, and thereby nearly 18 years have rolled by since then. The applicant has already remained in jail for more than 10 days, and no useful purpose would be served in again sending him to jail. Therefore, in the interest of justice, it would be appropriate, if the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned counsel for the State has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses Ramsai (PW-1/Complainant), Pannu Ram (PW-2), Anand Ram (PW-3), Nandu Ram (PW-4), Dharmu Ram (PW-5), Ratisai (PW-6), Dr. M. K. Jain (PW-7), and Dr. J. B. Minz (PW-8) established the involvement of the accused/applicant in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by appellate Court below as regards conviction of the applicant under Sections 325, 323 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2002, and further that the applicant had already remained in jail for more than 10 days, therefore, his sentence is liable to be reduced to the period already undergone by him.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicant, he is sentenced to the period already undergone by him. The applicant is reported to be on bail. His bail bonds shall stand discharged.

11. The criminal revision thus allowed in part.

**Sd/-
(Rajani Dubey)
JUDGE**