

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 175 of 2012**

1. Siddh Ram S/o Lakhan Lal Porte, aged about 32 years,
 2. Rohit S/o Laxman Marar, aged about 22 years
- Both are R/o Village Lalpur Kala, P.S. Kawardha, District Kabirdham (C.G.)

---- Appellants**Versus**

State of Chhattigarh through Station House Officer- P.S. Kawardha, District Kabirdham (C.G.).

---- Respondent

For Appellants	:	Mr. Ajit Singh, Advocate
For Respondent	:	Ms. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**01/10/2019**

1. This appeal has been preferred against the judgment dated 05/01/2012 passed in Sessions Trial No. 30/2010 by the Sessions judge, Kabirdham (Kawardha) (C.G.), whereby the Appellants have been convicted under Section 324/34 of the Indian Penal Code and sentenced to undergo RI for 1 month and to pay fine of Rs. 1000/- with default stipulations.
2. Facts of the case are that on 27/07/2009, Kajelal Yadav (PW2) lodged a FIR alleging therein that at about 7:00 am on the same day, when he had gone towards the field he saw that the Appellant were assaulting a person namely Lakhan Gond. The Appellants also abused him and

threatened him to kill. Injured Lakhan Gond was taken to hospital. There he was medically examined by Dr. Santosh Lunia. His report is Ex.P.-10. Statement of witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges under Section 307 read with 34 and 506-B read with 34 of the IPC. As many as 9 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellants under Section 313 of the Cr.P.C were recorded wherein they have pleaded their innocence and false implication in the matter.

3. After trial, the learned trial Court has acquitted the Appellants from the charge framed under Sections 307 read with 34 and 506-B read with 34 of the IPC. However, the Appellants have been convicted and sentenced as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellants submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the Appellants have undergone 12 days out of total jail sentence of 1 month, they have no criminal antecedent and they are facing the *lis* since 2009, therefore, he prays that the jail sentence awarded to the Appellants may be reduced to the period already undergone by them.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.

6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 1 year, the Appellants have undergone about 12 days, they are facing the *lis* since 2009 and there is no criminal antecedent against them, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail sentenced awarded to them is reduced to the period already undergone by them.
8. Consequently, the appeal is partly allowed. The conviction of the Appellants under Section 324/34 of the IPC is upheld and they are sentenced to the period already undergone by them. The fine sentence is affirmed.
9. It is reported that the Appellants/accused are on bail. Their bail bonds are not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge