

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 24 of 2010

1. Ishwar Suryavanshi, S/o Rameshwar Prasad Tamre, aged about 23 years, Caste Suryavanshi, R/o Gatoura, Bhawani Chowk, P.S. Masturi, District – Bilaspur, C.G.
2. Ganesh Ram Suryavanshi, S/o Hari Ram Suryavanshi, aged about 45 years, R/o Gatoura, Bhawani Chowk, PS Masturi, District Bilaspur, C.G.
3. Bhola @ Dinesh, S/o Parmeshwar Suryavanshi, aged about 21 years, R/o Gatouora, Bhawani Chowk, P.S. Masturi, District – Bilaspur, C.G.
4. Ravi Suryavanshi, S/o Hari Ram Suryavanshi, aged about 22 years, R/o Gatoura, Bhawani Chowk, P.S. Masturi, District – Bilaspur, C.G.

---- Applicants

Versus

- State of Chhattisgarh, Through P.S. Masturi, Raipur, District-Bilaspur, Chhattisgarh

---- Respondent

For Applicants	:	Ms. Rashmi Sen, Adv.
For Respondent/State	:	Ms. Reena Singh, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

23.08.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 04.01.2010, passed by the Third Additional Sessions Judge, Bilaspur, in Cr. Appeal No. 154/2007 whereby the learned appellate Court below while maintaining the conviction of the applicant modified the sentence awarded by the learned Judicial Magistrate first Class, Bilaspur, vide its judgment dated 10.08.2009 in Cr. Case No. 154/2007 for the offence under Sections 325/34 and 323/34 of the IPC, and sentenced him to undergo RI for six

months along with fine of Rs. 100/-, RI for three months along with fine of Rs.100/-, respectively, with default stipulations.

2. Brief facts of the case are that on 08.10.2007, at about 9.30. p.m. in Village Gautara there was some function in the house of applicant No.4/Ravi Suryavanshi. After consuming liquor, Ravi Suryavanshi along with other co-accused came in front of house of Chhotelal and started abusing him in filthy language, which was opposed by the complainant/Vijendra. Thereafter, the accused persons started abusing Vijendra and also assaulted him by wooden shaft, due to which he sustained injuries. A report was lodged in the police station by the complainant and offence was registered against applicants/accused. After filing of the charge sheet, the trial Court framed charges against the accused/applicants under Sections 323/34 and 325/34 of the IPC.

3. So as to prove the guilt of the accused/applicants, the prosecution has examined 07 witnesses. Statement of the accused/applicants was also recorded under Section 313 of the Cr.P.C. in which they denied the charge leveled against them and pleaded their innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 10.08.2009, learned Judicial Magistrate First Class has convicted the accused/applicants for the offence under Sections 323/34 and 325/34 of the IPC, and sentenced him to undergo RI for three months along with fine of Rs. 100/-, RI for one year along with fine of Rs.100/-, respectively, with default stipulations. This order was appealed by the applicants and in the appeal the learned Court below has maintained the conviction under Section 325/34 of the IPC, and the

sentence has been modified to six months and to pay fine of Rs.100/- to each respectively, with default stipulations. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicants submits that he is not pressing the revision as 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 2007 and thereby more than 12 years have rolled by since then, the applicants are aged about more than about 40-50 years, they have already remained in jail for about more than 10 days, no useful purpose would be served in again sending them to jail, therefore, it would be in the interest of justice if the sentence imposed on them may be reduced to the period already undergone by them.

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

8. Having gone through the material on record and the evidence of the witnesses including Vijendra(PW-1), Chhotelal(PW-2), Jai Singh Kurre(PW-3), Dayanand Kurre(PW-4), Dr. J.P. Arya(PW5), Subhash Singh(PW-6) and Dr. George M. Khaka(PW-7) establishes the involvement of the accused/applicants 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 applicants under Section 325/34 and 323/34 of the IPC, being so it is hereby maintained.

9. Taking into consideration the aforesaid material aspects of the case and the fact that the incident had taken place in the year 2007 and further considering that the applicants have already remained in

jail for about more than ten days, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicants are reported to have remained in jail for a period of more than ten days, their sentence is reduced to the period already undergone by them. The applicants are reported to be on bail. Their bail bonds stand discharged.

10. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
Judge