

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 10 of 2011**

1. Ashok Kumar S/o Bhagawali @ Bhawan Kumar, aged about 23 years, R/o village Semardarri Thana Marwahi District-Bilaspur, C.G.
2. Bhagwali @ Bhawan Kumar S/o Firatu Chaudhary, aged about 40 years, R/o Semardarri, Thana-Marwahi, District-Bilaspur, C.G.

---- Applicants**Versus**

- State Of Chhattisgarh Through Police Station Marwahi, District-Bilaspur, C.G.

---- Respondent

For Applicants	:	Mr. Yogendra Chaturvedi, Adv.
For Respondent/State	:	Mr. Sameer Sharma, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****08.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 21.12.2010 passed by the learned Additional Sessions Judge (FTC), Pendra Road, District-Bilaspur in Cr. Appeal No. 70/2010 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Marwahi, vide its judgment dated 22.09.2010 in Criminal Case No. 165/2009 for the offence under Sections 456, 325/34, 325/34, and 506(II) of IPC and sentenced him to undergo R.I. for one year with fine of Rs. 50/- for each section plus default stipulation.

2. Brief facts of the case are that complainant Firatu lodged FIR on 07.04.2003 against accused persons alleging that on 06.04.2003 at about 23:00 O'clock, when he and his guest namely Ramavatar were sleeping in the courtyard of his house and his daughter Sonkuvar was also sleeping at verandah, accused persons came to his house armed with Lathi (Stick) and Farsa in their hand and started assaulting them abusing filthy language and

threatened to kill, and as a result of which, they sustained grievous injuries. On the basis of complaint, offence was registered against accused persons and after completion of investigation, charge sheet was filed and charges were framed against the applicants.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 10 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they 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 22.09.2010, learned Judicial Magistrate has convicted and sentenced the accused/applicants for the offence under Sections 456, 325/34, 325/34, and 506(II) of IPC and sentenced them to undergo R.I. for one year and to pay fine of Rs. 50/- for each section in default of fine 15-15 days of simple imprisonment for each offence. This order was appealed by the applicants and in the appeal, learned Appellate Court while acquitting the co-accused, and has confirmed the conviction and sentence of the appellants. Hence, the present revision.

5. Counsel for the applicants submits that they have not committed any offence, both the Courts below have failed to appreciate the very fact that there is no evidence on record, which shows that the applicants have committed an offence. The impugned judgment and finding of the Court are contrary to the facts and it is liable to be set aside. Lastly, he submitted that the applicants are undergone more than 20 days in jail, incidence took place in the year 2003 and thereby more than 15 years have rolled by since then. Therefore, it would be appropriate in the interest of justice if the sentence imposed upon them may be reduced to the period already undergone by them.

6. Learned counsel for the State supported the impugned judgment and submitted that the appellate Court has not committed any error while passing the impugned judgment.

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

8. Having gone through the material on record and the evidence of the witnesses Sonkunwar (PW-1), Ramawatar (PW-2), Dr. B.S. Paikra (PW-3),

Damru Das (PW-4), Chhotelal (PW-5), Jay Prakash (PW-6), Govind (PW-7), Jayanti Shukla (PW-8), Dr. S. Chaterji (PW-09), and Shiv Prasad (PW-10), established the involvement of the accused/applicants in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the appellants under Sections 456, 325/34, 325/34, and 506(II) of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2003, and further that the appellants had already remained in jail for more than 20 days, therefore, their sentence is liable to be reduced to the period already undergone by them.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the appellants, they are sentenced to the period already undergone by them. The appellants are on bail. Their bail bonds shall stand discharged.

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