

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 376 of 2010**

1. Deobaran S/o Shri Sukhsai, aged about 42 years.
2. Subhan Ram S/o Aman Ram, aged about 67 years.
3. Kamla Ram S/o Ramprasad aged about 38 years.
4. Kashi Ram S/o Radan Singh aged about 30 years.

All resident of village Rajpurikala, P.S. Lakhanpur, Tahsil Ambikapur, District Surguja (C.G.)

----Applicants**Versus**

- State of Chhattisgarh Through : P.S. Lakhanpur, District Surguja (C.G.)

---- Respondent

For Applicants	:	Shri Shakti Raj Sinha, Adv.
For Respondent/State	:	Shri Anurag Verma, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****13/09/2019**

01. This criminal revision is directed against the order dated 28.07.2010 passed by Sessions Judge, Surguja at Ambikapur, in Criminal Appeal No.51/2008, whereby the learned appellate Court while maintaining the conviction of the applicants under Sections 325/34 and 323/34 IPC, modified the sentence awarded on 22.04.2008 by the Judicial Magistrate First Class, Ambikapur, in Criminal Case No.771/2006.

02. Brief facts of the case are that there was old land dispute between complainant Jagarmati and applicant Subhan

Ram. Prior to 10 days of incident, applicant Subhan Ram had cut bamboo and equally distributed, the complaint of which was made by Jagarmati. On the very day, when she was sitting in the house of Mansai, the accused/applicants herein came over there, started abusing and caused injuries to Mansai by hands and fists. When Jagarmati intervened the matter, she was also assaulted by the applicants. On the basis of report, FIR (Ex.P/6) lodged by Mansai (PW/1) and after medical examination of the injured and after completion of investigation, the charge sheet was filed against the accused/applicants.

03. Learned Magistrate having perused the material before it convicted the accused/applicants under Sections 325/34 and 323/34 IPC with imposition of sentence of R.I. for 1 year with fine of Rs.100/- each and S.I. for three months each, plus default stipulation respectively. However, the jail sentence awarded under Section 325/34 IPC has been reduced by the appellate Court to R.I. for 6 months and jail sentence awarded under Section 323/34 IPC has been converted to fine amount of Rs.500/- each. Hence, this revision.

04. Counsel for the applicant submits that the Courts below have committed an error in convicting and sentencing the accused/applicants as mentioned above though the evidence led by the prosecution was lacking and, therefore, the same may be set aside.

05. State counsel, however, supports the findings recorded

by the Court below.

06. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

07. From the evidence of Mansai (PW/1), Jagarmati (PW/3), injured eye-witnesses, Chamal Sai (PW/2), son of PW/3, Shivnath Ram (PW/4), who has supported the version of PW/2 and also the evidence of doctor P.S. Marco (PW/7) who medically examined injured Mansai and Jagarmati and gave his reports vide Ex.P/3 and P/4 respectively noticing swelling on both elbow, left knee and right side of waist of Mansai (PW/1) and scratch in left hand wrist, pain in left hand, swelling on left shoulder with pain, swelling on forehead and swelling on right hand of Jagarmati (PW/3), this Court is of the opinion that the conviction recorded by both the Courts below as described above is strictly on the basis of evidence on record and there is nothing worth interference with the same. Conviction is thus maintained.

08. As regards sentence, keeping in view the facts that the incident had taken place in the year 2003 and thereby 17 years have rolled by since then and further that the applicants have already remained in jail for 08 days. This Court is of the opinion that no useful purpose would be served in sending them back to jail at this stage and the ends of justice would be served if they are sentenced to the period already undergone by them.

09. In view of the aforesaid discussion, the revision is partly allowed. While maintaining the conviction of the applicants under Sections 325/34 and 323/34 IPC, they are sentenced to the period already undergone by them. The applicants are reported to be on bail. Their bail bonds shall stand discharged.

Sd/-

(Rajani Dubey)
JUDGE

pekde