

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 406 of 2010**

1. Vijay Yadav, aged about 45 years, S/o Kuiya Yadav.
2. Subhash Yadav, aged about 22 years, S/o Jailal.
3. Ramesh Yadav, aged about 23 years, S/o Vijay Yadav.

R/o village Sonpur, Thana Pratappur, Tahsil Pratappur, district Sarguja (C.G.)

---- Applicants

Versus

- State of Chhattisgarh, through Police Station Pratappur, district Sarguja (C.G.)

---- Respondent

For Applicants	:	Smt. Salvik Tiwari, Advocate
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

03.05.2019

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 03/08/2010 passed by the Additional Sessions Judge (FTC), Pratappur, district- Sarguja in Cr. Appeal No. 81/2010 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Camp Court, Wardrofnagar, Pratappur, vide its judgment dated 09/04/2010 in Criminal Case No. 233/2005 for the offence under Sections 325 of IPC and sentenced them to undergo R.I. for six months with fine of Rs. 400/- each, plus default stipulation.

2. Brief facts of the case are that on 29.11.2005 when the complainant Jaylal was coming after searching for labour, there was a dispute arose between the complainant's son Satendra and the

applicants. The accused/applicants started beating the complainant brutally with the help of club. Due to this the complainant sustained grievous multiple injuries. The FIR was lodged by the complainant. After completion of investigation charges were framed against the accused/applicants under Section 325 IPC.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 08 witnesses and defence examined 01 witness. Statements of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charge leveled against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 09/04/2010, learned Judicial Magistrate, First Class, has convicted and sentenced the applicants for the offence under Section 325 IPC and sentenced them to undergo R.I. for six months with fine of Rs. 400/- each. This order was appealed by the applicants and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the applicants. 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 applicants 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 2005, and thereby more than 13 years have rolled by since then. Applicants Vijay Yadav, Subhash Yadav and Ramesh Yadav are aged about 50 years, 35 years and 35 years respectively. The applicants have already remained in jail for about 15 days, and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them.

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

8. Having gone through the material on record and the evidence of the witnesses Jailal Yadav (PW-1), Nandkumar Yadav (PW-2), Dr. Maheshwar Singh (PW-3) Kumari Subhadra (PW-4), Kumari Durgawati (PW-5), Bansal Gupta (PW-6), Lakhanlal @ Lakhanram (PW-7) and Shri Krishna Singh (PW-8) involvement of the accused/applicants in the crime in question stands proved beyond reasonable doubt. 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 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2005, and further that the appellant had already remained in jail for 15 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 applicants, they are sentenced to the period already undergone by them.

Sd/-
(Rajani Dubey)
JUDGE