

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 265 of 2011**

Bhagirathi S/o Ramprasad, Aged about 25 years Occupation Agriculturist R/o Village Majhgava, Thana Pratappur, Distt. Sarguja (C.G.)

---- Appellant**Versus**

State of Chhatisgarh, Through Aarakshi Kendra Pratappur, Distt. Sarguja (C.G.)

---- Respondent

For Appellant	:	Mr. Neeraj Mehta, Advocate
For Respondent	:	Ms. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**22/07/2019**

1. This appeal has been preferred against the judgment dated 16/03/2011 passed in Sessions Trial No. 62/2010 by the Additional Sessions Judge (FTC), Pratappur, Distt. Sarguja, whereby the Appellant has been convicted under Sections 294 and 325 of the IPC and sentenced to pay fine of Rs. 500/- and RI for 3 years with fine of Rs. 500/-, respectively, with default stipulations.
2. Facts of the case are that on 10/11/2009 at about 5:30 when the Complainant Luxmaniya Bai (PW2) was returning from Majhgawan (Bhatti), she saw that the Appellant was grazing his cattle in her agriculture field. She tried to prevent him to do, but the Appellant abused her and assaulted her with the means of club. On account of this blow, the Complainant received injuries and her Ulna bone was

fractured. The incident was witnessed by some villagers. The matter was reported by the Complainant vide Ex.P-2. Statement of witnesses under Section 161 of the Cr.P.C were recorded. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. Total 8 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant has been recorded under Section 313 Cr.P.C was recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the learned Sessions Judge has acquitted the Appellant from the charge framed under Section 506-B of the IPC and convicted and sentenced him as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant 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 out of total jail sentence of 3 years, the Appellant has already undergone about 32 days, he is facing the *lis* since 2011, there is no criminal antecedent against the Appellant, therefore, he prays that the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
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 3 years, the Appellant has undergone about 32 days, he is facing the *lis* since 2011 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentenced awarded to him is reduced to the period already undergone by him and the fine sentence imposed under Section 325 of the IPC is enhanced to Rs. 10,000/-, and the fine sentence imposed under Section 294 of the IPC is affirmed. Ordered accordingly. The enhanced amount of fine shall be payable within 1 month from the date of receipt of a copy of this order. In default of payment, the Appellant shall be liable to undergo RI for 6 months. If any amount has already been deposited towards fine under Section 325 of the IPC, the same shall be adjusted in the amount of fine imposed/enhanced today.

8. Consequently, the appeal is partly allowed to the extent indicated above.
9. It is reported that the Appellant/accused is on bail. His bail bond is 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