

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 283 of 2011**

1. UdayJain S/o Nemichand Jain, aged 26 years, Prof. Business, R/o Near Mata Pandaal, Sanyashi Para Khamtarai, District Raipur (C.G.).
2. Vikas Yadav, S/o Shivnarayan Yadav, aged about 22 years, Prof.- Student R/o Sec-2, Behind Balaji Traders, Shivanand Nagar, Gudhyari, Raipur (C.G.).

---- Appellants**Versus**

State of Chhattigarh Through the Police Station Khamtarai, District Raipur (C.G.).

---- Respondent

For Appellants	:	Mr. J.K. Gupta, Advocate
For Respondent	:	Ms. Smita Ghai, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**06/09/2019**

1. This appeal has been preferred against the judgment dated 31/03/2011 passed in Sessions Trial No. 235/2009 by the Second Additional Sessions Judge, Raipur (C.G.), whereby the Appellant has been convicted under Sections 323 read with 34, 427 and 448 of the IPC and sentenced to undergo RI for 6 months with fine of Rs. 500/-, RI for 6 months with fine of Rs. 500/- and RI for 6 months with fine of Rs. 500/-, respectively, with default stipulations.
2. Facts of the case are that on 12/08/2009 at about 2:00 pm, Complainant Hasmat Ullah was on his shop. The Appellants came there and got recharged their mobile phones and bought some

cigarettes. On being asked for money, the Appellants started abusing and threatening the Complainant. They also broken stuffs in his shop. The damaged caused by them was approximately Rs. 10,000/-. The Complainant lodged a report. On the basis of said report, offence has been registered. Statement of the 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 under Section 294, 306, 427, 448 & 23/34 of the IPC. As many as 7 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellants under Section 313 of the Cr.P.C were recorded wherein they have pleaded their innocence and false implication in the matter.

3. After trial, the trial Court has acquitted the Appellants from the charge framed under Sections 294 and 506 of the IPC and convicted and sentenced them as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellants 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 the Appellants have already undergone about 1 months during trial, they have no criminal antecedent and they are facing the *lis* since 2009, therefore, he prays that the jail sentence awarded to the Appellants may be reduced to the period already undergone by them
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 6 months, the Appellants have undergone about 1 month, they are facing the *lis* since 2009 and there is no criminal antecedent against them, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail sentenced awarded to them is reduced to the period already undergone by them and the fine sentence imposed under Section 427 of the IPC is enhanced to Rs. 20,000/- against each of the Appellant. 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 Appellants shall be liable to undergo RI for 3 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.
8. The fine sentence imposed under Section 427 of the IPC shall be given as compensation to the Complainant Hasmat Ullah in light of Section 357 (1) of the Cr.P.C.
9. Consequently, the appeal is partly allowed to the extent indicated above.
10. It is reported that the Appellants/accused are on bail. Their bail bonds are 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.

11. 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

Rahul