

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 673 of 2010

- Ramcharan, S/o Deonarayan Vishwakarma, aged about 32 years, R/o Village Bemeha, Police Station and Tahsil Mahasamund, District – Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through Station House Officer, Police Station Mahasamund, Tahsil and District – Mahasamund, Chhattisgarh

---- Respondent

For Applicant	:	Shri Y.C. Sharma, Adv.
For Respondent/State	:	Shri Wasim Miyan, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

30.07.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 06.12.2010, passed by the learned First Additional Sessions Judge, Mahasamund, in Cr. Appeal No. 38/2009 whereby the learned appellate Court below while maintaining the conviction of the applicant modified the sentence awarded by the learned Chief Judicial Magistrate, Mahasamund, vide its judgment dated 21.04.2009 in Cr. Case No. 635/2008 for the offence under Section 325 of the IPC and sentenced him to undergo RI for six months along with fine of Rs. 200/-, with default stipulation.

2. Brief facts of the case are that on 09.10.2008, at about 8.00 p.m., when complainant Vinod Manikpuri was sitting in front of his house, at that time, Kanti Lohar was passing two-three times in front of his house. Due to previous enmity, Vinod Manikpuri started quarrel with Kanti

Lohar, started abusing him in filthy language and assaulted him. After some time, the family members of the Kanti Lohar, Ramcharan Lohar, Horilal, Nandobai and Amricabai came to the house of Vinod Manikpuri and started quarreling and abusing him in filthy language. When mother of the complainant Vinod Manikpuri trying to stopped them, then applicant assaulted her with the help of bamboo stick, due to which she sustained fracture in her hand. Thereafter, the report was lodged in the police station Mahasamund by the complainant and offence was registered against applicant/accused. After filing of the charge sheet, the trial Court framed charges against the accused/applicant under Section 325 of the IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 07 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 21.04.2009, learned Magistrate has convicted the accused/applicant for the offence under Section 325 of the IPC and sentenced him to undergo RI for three years along with fine of Rs. 200/-, with default stipulation. On appeal, the conviction has been maintained but the sentence awarded under Section 325 of the IPC, has been reduced to six months and to pay fine of Rs.200/-, with default stipulation. Hence, the present revision.

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

6. Counsel for the applicant submits that he is not pressing the revision as 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 2008 and thereby more than 11 years have rolled by since then, he is aged more than about 50 years, the applicant has already remained in jail for about more than 10 days, no useful purpose would be served in again sending him to jail, therefore, it would be in the interest of justice if the sentence imposed on him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses including Vinod Manikpuri(PW-1), Bhag Bai(PW-2), Vishram(PW-3), Preetkumar Dhruv(PW-5), Kapishwar Pushpkar(PW-6) and Dr. G.C. Dewan(PW-7) establishes the involvement of the accused/applicant in the crime in question. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Section 325 of the IPC, being so it is hereby maintained.

9. Taking into consideration the aforesaid material aspects of the case and the fact that the incident had taken place in the year 2008 and further considering that the applicant has already remained in jail for about more than ten days, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of more than ten days, his sentence is reduced to the period already undergone by him. The applicant is reported to be on bail. His bail bonds stand discharged.

10. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
Judge