

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 491 of 2006**

1. Panchram, S/o Pratap Satnami, aged about 53 years,
2. Saukhi Lal alias Daulat, S/o Panchram, aged about 29 years,
3. Ganpat, S/o Panchram Satnami, aged about 26 years,
4. Shani Kumar, S/o Panchram Satnami, aged about 24 years,
5. Kartikram, S/o Panchram Satnami, aged about 23 years,
6. Ishwar, S/o Panchram Satnami, aged about 21 years.

All R/o Village – Lilwakapa, Police Station – Mungeli, District – Bilaspur
(C.G.)

---- Appellants

Versus

1. State of Chhattisgarh Through Police Station Mungeli, District Bilaspur,
(C.G.).

---- Respondent

For Appellants	:	Shri Malay Shrivastava, Advocate.
For Respondent/State	:	Shri Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board**

20/12/2019

1. This appeal has been preferred against the judgment dated 26.06.2006 passed in Sessions Trial No. 104/2005 by the Additional Sessions Judge, Mungeli, District Bilaspur, (C.G.), whereby the Appellants have been convicted for the offence punishable under Sections 325 r/w 149 and 323 r/w 149 of the Indian Penal Code and sentenced to undergo R.I. for 5 years with fine of Rs. 700/- each and fine of Rs. 1,000/- each, respectively with default stipulations.

2. Facts of the case are that Rajeshwari (PW-1) lodged a report Ex. P/1 alleging therein that on 22.10.2004 at around 3:00 PM, when she was going along with her husband Chandra Kumar, allegedly, appellant No. 1, Panchram, saying not to use the *gali* objected them. Thereafter, Panchram started abusing them. Having heard, Dayaldas and Roopchand came to the spot then Panchram also called his sons i.e. appellants No. 2,3,4,5&6 and they assaulted Chandra Kumar on his head with *lathi*, appellant No. 5 Kartikram assaulted Dayaldas with club and Daulat assaulted Rajeshwari, appellant No. 3 Ganpat assaulted Roopchand and when Yashoda came on spot, she was assaulted by appellant No. 1 Panchram. When Prem, Kumar Das and Bundela Bai came to rescue, the appellants ran away from the spot. On the basis of the report Ex. P/1, offence was registered against the present appellants. On completion of the investigation, a charge-sheet was filed. The Trial Court framed charges under Section 307 r/w 34 of I.P.C. The prosecution examined as many as 13 witnesses. No defence witness has been examined. Statement of the appellants under Section 313 of the Cr.P.C has also been recorded, wherein they pleaded innocence and false implication.
3. On completion of the trial, the Trial Court acquitted all the appellants of the charge framed against them under Section 307 r/w 34 of I.P.C. but convicted and sentenced them as mentioned in first paragraph 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 arguments to

the sentence part only. He further submits that the appellants have already undergone about one and half months out of total jail sentence of 5 years. They have no known criminal antecedent and they are facing the *lis* since 2004. 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 supports 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 facts and circumstances of the case, particularly, that out of total jail sentence of 5 years, the appellants have already undergone about one and half months, they are facing the *lis* since 2004, I am of the view that no fruitful purpose would be served if the appellants are sent back to jail after a lapse of about sixteen years. Therefore, it would be in the interest of justice to reduce the jail sentence of the appellants from five years to the period already undergone by them and enhance the amount of fine from Rs. 700/- to Rs. 3,000/- payable by each against their conviction under Section 325 read with Section 149 of I.P.C. The amount of fine of Rs. 3,000/- shall be payable within a period of one month from the date of receipt of copy of this order. Ordered accordingly. In default of payment of fine of Rs. 3,000/-, each of the appellants shall be liable to undergo R.I. for

three months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine of Rs. 3,000/- imposed today. So far as the conviction of the appellants under Section 323 read with Section 149 of I.P.C. is concerned, the same is affirmed and the sentence of fine imposed by the Trial Court therefor is also affirmed.

8. Consequently, the appeal is allowed in part to the extent indicated above.
9. Records of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge