

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 151 of 2013**

1. Alakh Ram Sidar (wrongly mentioned as Sirdar in Judgment of trial Court) S/o Ramgulal Sidar, aged about 39 years, Occupation Head Constable No. 68,
2. Siyaram Sidar (wrongly mentioned as Sirdar in judgment of trial Court) S/o Ramgulal Sidar, aged about 26 years, Occupation Constable No.55,

Applicants No. 1 & 2 both are R/o Village Leelar, Police Station Koregaon, District Dhamtari (C.G.)
3. Girdhar Sahu s/o Panchu Ram Sahu, aged about 29 years R/o Rudri Basti, Police Station Rudri, District Dhamtari (C.G.).

--- Applicants**Versus**

State of Chhattisgarh, Through the District Magistrate, Dhamtari (C.G.).

---- Respondent

For Applicants	:	Mr. D.N. Prajapati, Advocate
For Respondent	:	Ms. Smita Ghai, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****18/01/2019**

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against judgment dated 27/02/2013 passed by the Sessions Judge, Dhamtari (C.G.) in Criminal Appeal No. 90/2012, affirming the judgment of conviction dated 30/04/2012 passed in Criminal Case No. 321/2011 by the Judicial Magistrate First Class, Dhamtari whereby the accused/Applicants have been convicted under Section 323/34 of the IPC and sentenced to undergo RI for 3 months and to pay fine of Rs.

1000/- with default stipulation.

2. As per prosecution story, Complainant Thakur Prasad lodged a report on 28/10/2012 alleging therein that the Applicants were gambling near Durga Chowk and he opposed the same. Some hot talk took place between them. Later on, he went to the house of Applicant Alakh Ram for saying sorry, but the Applicants assaulted him with hand, fist, footwear and belt, due to which he sustained injuries on various parts of his body. On the basis of above report, offence under Sections 294, 323 and 506/34 of the IPC was registered. After investigation, a charge-sheet was filed.
3. After trial, the learned Judicial Magistrate First Class acquitted the Applicants from the charge punishable under Section 294 and 506 /34 of the IPC. However, the trial Court convicted the Applicants under Section 323/34 of the IPC and sentenced them as mentioned in paragraph one of this order, which was also affirmed by the Appellate Court. Hence, this revision.
4. Learned counsel appearing on behalf of the Applicants submits that he does not want to press this revision on merits and confines his argument to the sentence part only. It is further submitted that the Applicants are facing the *lis* since 6 years and out of total jail sentence of 3 months, the Applicants have undergone about 9 days. There is known criminal antecedent registered against the Applicants, therefore, he prays that the jail sentence awarded to the Applicants may be reduced to the period already undergone by them. He further submits that Applicant No. 1 and Applicant No. 2 are still in service and due to

this conviction, their service career may be suffered. Therefore, he prays that considering the entire circumstances while affirming the conviction, it may be directed that the sentence imposed upon Applicant No. 1 & 2 shall not affect their career.

5. Learned Counsel appearing for the State opposes the prayer for grant of bail and supported the impugned judgment.
6. I have heard Learned Counsel appearing for the parties and perused the record.
7. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 3 months, the Applicants have undergone about 9 days and they are facing the *lis* since 6 years, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Applicants, the jail sentenced awarded to them is reduced to the period already undergone by them.
8. Consequently, the revision is partly allowed. The conviction of the Applicants under Section 323/34 of the IPC is upheld and they are sentenced to the period already undergone by them. The fine sentence is affirmed.
9. So far as, Applicant No. 1 & 2 are concerned, it is directed that the conviction awarded to them shall not affect their service career.
10. It is reported that the Applicants/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