

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 92 of 2005

1. Bilwa alias Kanhaiya Satnami, aged 60 (sixty years), son of Ram Dayal, Cultivator and resident of village Achholi, in the police station Pallari, District Raipur, C G

--- Applicant

Versus

1. State of Chhattisgarh through Police Station Pallari, the Collector, Raipur, CG

--- Respondent

For Applicant	-	Shri S.P. Sahu, Advocate.
For Respondent/State	-	Smt. M. Asha, PL
		Applicant is also present.

Order on Board by Hon'ble Smt. Vimla Singh Kapoor, J.

08.01.2019:

Judgment under challenge in this revision petition is dated 15.02.2005 passed by Additional Sessions Judge Baloda Bazar, in Criminal Appeal No. 230/2004 whereby the findings recorded by Judicial Magistrate First Class, Baloda Bazar convicting the accused/applicant under Section 326 IPC and sentencing him to undergo RI for three months with fine of Rs. 2,000/-, plus default stipulation, have been affirmed.

2. Accused/applicant and the complainant Gonda Bai (PW-2) happen to be the neighbours and they were known to each other prior to the date of incident. There appears to have arisen some dispute between the members of both the families on account of plinth being dug nearby. On the date of incident when the

complainant (PW-2) along with Durpat Bai and Pushpa had gone to the village pond for taking bath, the accused/applicant herein along with the acquitted accused persons namely Tulsibai and Rambai followed her. After reaching near the pond, acquitted accused Tulsibai and Rambai are said to have beaten the complainant with hand and fist whereas the present applicant with axe. On account of axe blow dealt by the applicant, complainant suffered bleeding injury in her right knee. Incident is said to have been witnessed by Kewalbai who at that time was taking bath at some distance. After being brought home by her mother Jankibai, the complainant informed about the incident to Ganga Satnami, Fungu Satnami, Chhutu Satnami etc. Thereafter, the report was lodged, complainant was medically examined and after completion of the investigation, *challan* was filed by the police.

3. After examining the material available on record and the evidence of the witnesses, the trial Court convicted and sentenced the accused/applicant u/s 326 IPC but acquitted the other two of the charge levelled against them. The findings recorded by the trial Court have subsequently been confirmed by the lower Appellate Court by the judgment impugned and it is that which is under challenge in this revision.

4. Counsel for the accused/applicant submits that he is not pressing this revision as far as conviction part of the judgment challenged therein is concerned, and would confine his argument to its sentence part only. He submits that as the incident had taken place in the year 1991, that he has remained in jail for one month and nine days and that the injured got recovered within a short

interval, the sentence imposed on him may be reduced to the period already undergone.

5. On the other hand, counsel for the respondent/State supports the judgment impugned as a whole.

6. Heard counsel for the parties and perused the evidence on record.

7. Having heard counsel for the parties and perused the material available on record including the evidence of victim (PW-2), Pushpa (PW-3), Janki Bai (PW-4), Sudhe Ram (PW-5), Suraj Bai (PW-6), doctors (PW-7 and PW-8), it is apparent that on the date of incident the accused/applicant had inflicted axe injuries to the victim. Evidence of the doctors (PW-7 and PW-8) shows that there was incised wound on the right foot of the victim in the size of 3x1.5x5 cm; movement of ankle joint was affected and on x-ray being taken fracture of right tibia bone was found. Furthermore, under Ex. P-2, axe was also seized from the accused/applicant. It is thus clear that the applicant voluntarily caused grievous hurt to the victim by means of axe, and being so the findings recorded by the Courts below convicting the accused/applicant as shown above, are just and proper and do not suffer from any illegality or infirmity warranting interference by this Court. Conviction of the applicant u/s 326 IPC is thus maintained.

8. As regards sentence, keeping in mind the fact that the incident had taken place in the year 1991 thereby leading to passage of 28 long years since thereafter, that the applicant has already remained in jail for one month and nine days and that by

now he must be under the burden of family responsibilities, this Court thinks it just and proper and in the interest of justice to reduce the same to the period already undergone. Order accordingly.

9. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi