

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 563 of 2005

Order reserved on 22.01.2019

Order pronounced on 18.03.2019

1. Ramdhani Yadav, aged about 38 years,
 2. Naresh Yadav, aged about 32 years,
 3. Raghuvansh Yadav, aged about 28 years,
 4. Satya Narayan Yadav, aged about 30 years,
All son of Hari Yadav, R/o Village Navapara, P.S. Ramanujganj,
District Sarguja (C.G.)
- Applicants

Versus

The State of Chhattisgarh through P.S. Ramanujganj, District
Sarguja (C.G.)

--- Respondent

For Applicant : Shri Sudhir Bajpai, Advocate

For State/Respondent : Ms. M. Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Order

FIR (Ex. P-1) lodged by Prahlad (PW-1) indicates that on 09.04.2001 at about 5 PM when he had gone to a quack in connection with the treatment of his daughter and at the time when he was returning therefrom at about 8 PM, the accused/applicants waylaid him and opened an assault on him. It is alleged that accused/applicant Raghuvansh caused injuries on his right elbow with the help of axe which started bleeding profusely. Accused/applicants Ramdhani Yadav, Naresh Yadav and Satya Narayan Yadav are also alleged to have caused injuries on various parts of his body such as chest, back, shoulder etc.. After medical examination of the victim and completion of other procedural formalities the *challan* was filed against the accused/applicants under Sections 147, 148, 149, 323, 324, 341, 325, 326 IPC and the charge was framed accordingly.

2. After going through the record learned Judicial Magistrate First Class, Ramanujganj convicted the accused/applicants under Sections 148

and 326/149 IPC and sentenced each of them to undergo SI for 6 months and pay fine of Rs.300/- under Section 148 and SI for 2 years with fine of Rs.1000/- under Section 326/149 IPC vide judgment dated 12.02.2004 passed in Criminal Case No.223/2001. In appeal also, the findings recorded by learned Magistrate have also been upheld vide judgment impugned dated 15.12.2005 passed in Criminal Appeal No.99/2004. Hence, this revision.

3. Counsel for the applicants submits that his main thrust would be on the sentence part of the judgment impugned and he would not press the conviction part at this stage. He submits that as the applicants have already remained in jail for more than 3 months and that the incident had taken place in the year 2001, no useful purpose would be served in again sending them to jail. State counsel however supports the judgment impugned and submits that the findings recorded by both the Courts below are just and proper and no interference with the same is required.

4. Having considered the evidence and witnesses in particular that of PW-3, PW-4 and PW-6 who are the father, mother and wife of the injured PW-1 respectively, it becomes crystal clear that on the fateful evening when injured (PW-1) was returning after providing medical aid by a village quack to his daughter, the applicants herein stopped him on the way where accused/applicant Raghuvansh caused injury with the help of axe on his right elbow leading to profuse bleeding. Other applicants also caused club injuries on his chest, shoulder, back etc. making him fall down on the ground. On hearing the cries of injured (PW-1), his mother, father and wife also appeared on the spot and intervened in the matter. Father of the injured (PW-3) even snatched away the axe from accused No.1 - Raghuvansh whereas his father and wife took away the clubs from other accused persons. Axe was seized under Ex. P-4 and the witnesses examined in that respect have also supported the case of the prosecution. Doctor (PW-2) who medically examined the victim has also supported the

case of the prosecution vide his report Ex. P-2 which among other, shows cut wound on the left forearm and fracture of ulna bone. According to the doctor, the fracture of ulna bone could have been caused by some sharp edged weapon.

5. Thus from the discussion made above, it is apparent that the accused/applicants armed with axe and clubs had waylaid the injured and as soon as he drew nearer to them they pounced on him and inflicted axe and club injuries making him fall down on the ground. The injuries have duly been proved by the doctor who examined the victim and gave his report. The conviction recorded by both the Courts below as described above does not suffer from any illegality and infirmity warranting any interference therewith. It is accordingly maintained.

6. As regard sentence, keeping in mind the fact that the incident had taken place about 18 years back and that the accused/applicants have already suffered the jail sentence of more than 3 months, this court does not see any reason to again send them to jail. Being so, the sentence imposed on them is hereby reduced to the period already undergone. Order accordingly.

7. With the above, the revision stands allowed in part.

**Sd/-
(Vimla Singh Kapoor)**

Judge

jyotishi/ajay