

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 96 of 2013**

Golu @ Guman aged about 19 years S/o Punaram Nishad R/o Ward No. 4 Shantinagar, Street No.3 Rajanandgaon, District Rajnandgaon(C.G.).

---- Appellant**Versus**

State of Chhatisgarh, Through Police Station Rajnandgaon, District Rajnandgaon (C.G.)

---- Respondent

For Appellant	:	Mr. Rakesh Thakur, Advocate
For Respondent	:	Mr. K.K. Dewangan, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**10/07/2019**

1. This appeal has been preferred against the judgment dated 06/12/2012 passed in Sessions Trial No. 79/2011 by the Sessions Judge, Rajnandgaon, whereby the Appellant has been convicted under Section 307 of the IPC and sentenced to undergo RI for 5 years and to pay fine of Rs. 3000/- with default stipulation.
2. As per prosecution story, on 29/07/2011 at about 10:30 pm, Complainant Prakash Nishad (PW1) was going to have Gootka at Paan shop. On the way near a bridge, he met with acquitted accused Bhagwat who started abusing him due to some old dispute. It is alleged that at that time, Appellant- Golu came there who is nephew of Bhagwat assaulted the Injured by an axe due to which he sustained injuries on his head and left hand. The matter was reported vide

Dehati Nalsi Ex.P.-1. The Injured was medically examined by Dr. V.P. Mahiswar (PW4) who found total 3 injuries on the body of the injured. One injury on the occipital region which was simple in nature and two injuries on the head of the injured.

3. Statements of witnesses under Section 161 of the Cr.P.C were recorded. Axe has been seized from the possession of the Appellant vide Ex.P-11. After investigation, a charge-sheet has been filed against the Appellant and co-accused Bhagwat. Trial Court framed the charges against both of them. As many as 12 prosecution witnesses have been examined. One defence witness has been examined. Statement of Appellant has been recorded under Section 313 Cr.P.C was recorded, wherein he has pleaded his innocence and false implication in the matter.
4. After trial, the learned Sessions Judge acquitted Bhagwat from the charge framed against him and convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that out of total jail sentence of 5 years, the Appellant has already undergone about 2 years, he is facing the *lis* since 2011, there is no criminal antecedent against the Appellant, therefore, he prays that the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
6. Per contra, learned Counsel appearing for the State supported the

impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.

7. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
8. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 5 years, the Appellant has undergone about 2 years, he is facing the *lis* since 2011 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentenced awarded to him is reduced to the period already undergone by him and the fine sentence imposed under Section 307 of the IPC is enhanced to Rs. 30,000/-. Ordered accordingly. The enhanced amount of fine shall be payable within 1 month from the date of receipt of a copy of this order. In default of payment, the Appellant shall be liable to undergo RI for 6 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today. The fine sentence imposed under Section 307 of the IPC shall be given as compensation to the Injured in light of Section 357 (1) of the Cr.P.C.
9. Consequently, the appeal is partly allowed to the extent indicated above.
10. It is reported that the Appellant/accused is on bail. His bail bond is 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