

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 98 of 2013**

- Rajendra Singh Yadav S/o Amar Singh Yadav Aged About 22 Years R/o Dhamdha Naka Durg , P.S. Mohan Nagar, Tah And Distt. Durg C.G.

---- Applicant**Versus**

- State Of Chhattisgarh S/o Through - P.S. Utai , Tah. And Distt. Durg C.G.

---- Respondent

For Applicant	: Shri Arvind Dubey, Advocate
For Respondent /State	: Shri Wasim Miyan, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****05/08/2019**

The present revision has been preferred against the judgment and order dated 28.01.2013 passed by the Sixth Additional Sessions Judge, Durg in Cr.A. No. 183/2012 whereby the learned appellate court below has affirmed the conviction of the applicant and modified the sentence under Sections 189,332 and 353 IPC and sentenced him to pay fine of Rs. 1500/-, 500/- and 500/- instead of Rs. 1,000/-, 300/- and 200/- respectively.

2. Brief facts of the case are that on 31.01.2002, information was received that the accused/applicant was trying to escape in TATA 407 bearing No. MPC-4328 which was loaded with 128 gas cylinders and when staff of Uttai police station went to salute chowk and were

checking, they were prevented from proceeding with their duty and the applicant tried to threaten them by causing disturbance and scuffle took place between them. Report was lodged against the accused under Sections 186, 189, 332 and 353 IPC. After completion of investigation, charge sheet was filed and charges were framed against him for the aforesaid sections by the trial court.

3. So as to prove the guilt of the accused, prosecution has examined six witnesses. Statement of the accused/applicant was also recorded under Section 313 Cr.P.C. in which he denied the charges levelled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, the court below vide judgment and order dated 25.08.2012, convicted and sentenced the accused/applicant under Sections 186,189,332 and 353 IPC. However, the appellate court has acquitted him of the charge under section 186 IPC and have also modified the sentence part thereof by imposing fine of Rs. 1500/-, 500/- and 500/- under Sections 189,332 and 353 respectively instead of Rs. 1,000/-, 300/- and 200/-, with default stipulations. Hence, the present revision.

5. Counsel for the applicant submits that the learned trial court has grossly erred in law in passing the judgment and sentence against the applicant. He submits that the courts below have mis appreciated and misapprehended the entire evidence on record. He submits that the courts below ought to have held that the vehicle TATA 407 bearing No. MPC-4328, loaded with 128 gas cylinders was not the vehicle of the applicant and his vehicle was TATA SUMO which was standing in the

chowk therefore, the police staff checked the vehicle with ulterior motive. Moreover, the applicant belong to one of the relative of a Minister and therefore committing of such offence does not arise as the applicant belongs to a reputed family. The impugned judgment is against the established principles of law. The police staff has not collected any independent witnesses except the police and government doctors and the place where the incident has taken place was near the hotel therefore, for want of material evidence and independent witnesses the prosecution case is liable to be held as not fair and the applicant is liable to be acquitted.

6. On the other hand State counsel supports the impugned judgment and submits that there is no doubt that the accused had indeed prevented the police staff from carrying out the public duty and hence, seeks that the petition be dismissed.

7. Heard counsel for the parties and perused the material on record.

8. Shankar Chandrakar (PW-1), Nand Kumar Dubey (PW-5) and Ramakant Sahu (PW-6) in their statements have stated about the incident and Dr. Anil Agrawal has supported the medical report Ex.P-2. In his cross-examination, he remained firm and nothing has been stated against the applicant.

9. Thus, it is clear that the applicant had prevented the complainant and his staff from carrying out their duties and therefore, the offence under Section 332 IPC is attracted. Insofar as the offence punishable under [Section 353](#) is concerned, it is again evident that there was

criminal force used in not having allowed the complainant and his men to proceed with their duties and to that extent, it cannot be said that the section was not attracted.

10. I find no reason to entertain the present revision and to interfere with the order impugned. The revision fails and is hereby dismissed.

Sd/-

(Rajani Dubey)
Judge