

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 154 of 2013**

1. Ram Pyare S/o Shri Daharu Aged About 40 Years R/o Sakinan Khamhariya, P.S. Baraduar, Tah. Jaijaipur Distt. Janjgir-Champa, C.G.
2. Joidha Ram S/o Shri Daharu Aged About 35 Years R/o Sakinan Khamhariya, P.S. Baraduar, Tah. Jaijaipur Distt. Janjgir-Champa, C.G.
3. Mathura Prasad S/o Shri Daharu Aged About 36 Years R/o Sakinan Khamhariya, P.S. Baraduar, Tah. Jaijaipur Distt. Janjgir-Champa, C.G.

---- Applicants**Versus**

- State Of Chhattisgarh Through District Collector, District Janjgir-Champa C.G.

---- Respondent

For Applicants	:	Ms. Sareena Khan, Adv.
For Respondent/State	:	Mr. Anil Tripathi, PL

Hon'ble Smt. Justice Rajani Dubey**Order on Board****13.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 21.02.2013 passed by the learned 2nd Additional Sessions Judge, Sakti, District- Janjgir-Champa, C.G. in Criminal Appeal No. 71/2011 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, link Court, Sakti, vide its judgment dated 21.02.2011 in Criminal Case No. 505/2006 for the offence under Sections 452, and 323 of IPC and sentenced them to undergo R.I. for 6 months with fine of Rs. 500/- for each offence, plus default stipulation.
2. Brief facts of the case are that when complainant Athanan was studying in courtyard of the house of Ahir Singh on 17.04.2000 at about 8.30 am., the accused/applicants came there abusing to his brother namely Satanand

regarding the trees cutting from the Abadi land. When one complainant told them as to why they are abusing in front of me, they assaulted the complainant by stick of axe and with hands and legs. Thereafter, complainant lodged FIR against applicants/accused persons. After completion of investigation, charge sheet was filed and charges were framed by the trial Court against accused/applicants under Sections 452, 323 and 506B of IPC.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 11 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled against them and pleaded innocence and false implication in the case.
4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 21.02.11, learned Judicial Magistrate has acquitted from 506B and has convicted and sentenced the accused/applicants for the offence under Sections 452 and 323 of IPC and sentenced him to undergo R.I. for 6 months and to pay fine of Rs. 500/-, and R.I. for 6 months and to fine of Rs. 500/- respectively. This order was appealed by the applicants and in the appeal, learned Appellate Court has confirmed the conviction and sentence of the appellants. Hence, the present revision.
5. Counsel for the applicants submits that he is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2000, and thereby more than 19 years have rolled by since then. He is aged about 60 years. The applicants have already remained in jail for more than 25 days, and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them.
6. Heard learned counsel for the parties and perused the material on record including the impugned judgment.
7. Learned counsel for the State has no objection to this preposition.
8. Having gone through the material on record and the evidence of the witnesses Athanand (PW-1), Khikh Bai (PW-2), Janki Bai (PW-4), Roshan Lal (PW-5), Ashwani Kumar (PW-6), Kamal Kishore (PW-7), Taran Das

(PW-8), Satanand (PW-9), Dr. J.R. Singh (PW-10), and Mahendra Pandey (PW-11), established the involvement of the accused/applicants in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the appellants under Sections 452 and 323 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2000, and further that the appellants have already remained in jail for more than 25 days, therefore, their sentence is liable to be reduced to the period already undergone by them.
10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the appellants, they are sentenced to the period already undergone by them. The applicants are on bail. Their bail bonds shall stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**