

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 186 of 2013**

1. Mahendra Chaudhary S/o late Goduram Chaudhary, aged about 45 years, R/o Near Jaystambh Chowk, Gharghoda, P.S. Post and Tehsil Gharghoda, District Raigarh (C.G.).
2. Saching @ Sonu Gupta, S/o late Ranjeet Gupta, aged about 22 years, R/o Barghat Phaguram, P.S. Post and Tehsil Gharghoda, District Raigarh (C.G.)

----Applicants**Versus**

- State of Chhattisgarh Through : The District Magistrate, Raigarh (C.G.)

---- Respondent

For Applicants	:	Shri Vipin Punjabi, Adv.
For Respondent/State	:	Shri B.L. Sahu, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****13/09/2019**

01. This criminal revision is directed against the order dated 05.12.2012 passed by 1st Additional Sessions Judge, Raigarh (C.G.), in Criminal Appeal No.36/2012, whereby the learned appellate Court below has confirmed the conviction and sentence as awarded on 21.03.2012 by the learned Judicial Magistrate First Class, Gharghoda, in Criminal Case No.392/2009.

02. Brief facts of the case are that on 06.05.2009, when complainant Chhotu @ Ramratan was talking with Ram Jivan,

Pappu Chouhan, Ravi and Gopal near grocery shop of Naresh Agrawal, at 11.00 o'clock, applicants Mahendra Choudhary and Sonu Gupta along with two other persons, whose name he did not know, came there caught hold of him, hurled abuses and threatened him for dire consequence saying that he do bossing in the area. Thereafter, accused/applicants dragged the complainant to their vehicle Scorpio and took him to his house situated at Baroud where they assaulted the complainant with club, hands and fists and from there they took him to SECL Hospital for primary aid and flee from there. On the basis of this, FIR (Ex.P/1) lodged by Chhotu @ Ramratan (PW/5) and after medical examination of the injured and after completion of investigation, the charge sheet was filed against the accused/applicants.

03. Learned Magistrate having perused the material before it convicted the accused/applicants under Sections 323/34 with imposition of fine of Rs.1,000/- each (total Rs.2,000), in default of payment of fine amount to undergo R.I. for one month. This order was appealed by the applicant and in the appeal, the learned Appellate Court affirmed the conviction and sentence of the applicant as described above. Hence, this revision.

04. Counsel for the applicant submits that the Courts below have committed an error in convicting and sentencing the accused/applicants as mentioned above though the evidence led by the prosecution was lacking and, therefore, the same

may be set aside.

05. State counsel, however, supports the findings recorded by the Court below.

06. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

07. From the evidence of Dilip Behra (PW/1) - Head Constable, who recorded the FIR (Ex.P/1) and had sent the complainant for medical examination and R.P. Tiwari (PW/4) - Investigating Officer who have supported the version of injured/complainant Chhotu @ Ramratan (PW/5) as also the evidence of doctor (Smt.) Naincy Lakra (PW/2) who medically examined injured Chhotu @ Ramratan and gave her report vide Ex.P/3 noticing (i) scratch mark below right eye, (ii) scratch mark below left eye, (iii) scratch mark on left elbow and (iv) scratch mark on back of Chhotu @ Ramratan (PW/5), this Court is of the opinion that the conviction recorded by both the Courts below as described above is strictly on the basis of evidence on record and there is nothing worth interference with the same. Conviction is thus maintained.

08. As regards sentence, considering the facts and circumstances of the case, the trial Court imposed fine of Rs.1,000/- - Rs.1,000/- (total Rs.2,000/-), which has been affirmed by the appellate Court, this Court also does not find any irregularity or infirmity in the same warranting interference by this Court.

09. In the result, the revision is liable to be dismissed and it is hereby dismissed.

Sd/-

(Rajani Dubey)
JUDGE

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