

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 207 of 2013**

- Jhunit Ram S/o Kuwar Singh Aged About 30 Years R/o Sanwatpur , P.S. Nandghat, Tahsil Nawagarh, Distt. Durg Now Bemetara C.G.

---- Applicant**Versus**

- State Of Chhattisgarh S/o Through - Sho., P.S. Nandghat ,distt. Durg Now Distt. Bemetara C.G.

---- Respondent

For Applicant	: Shri Anand Gupta, Advocate
For Respondent/State	: Shri Akhtar Hussain, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****18/09/2019**

The present revision arises out of the impugned order and judgment dated 14.03.2013 passed by the Additional Sessions Judge, Bemetara Civil District Durg in Cr. Appeal No. 35/2011 whereby the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate first Class, Bemetara vide its judgment dated 27.04.2011 in Cr. Case No. 274/2010 for the offence under Sections 324 and 458 IPC and sentenced them to undergo RI for three months with fine of Rs. 500/- on both counts, plus default stipulation.

2. Brief facts of the case are that on 06.11.2010, on the eve of Goverdhan pooja at 8.00 p.m. in village Sawantpur, when complainant

was going towards the banyan tree for lighting lamp, there was some altercation going on between one Parmeshwar Yadav and Jhunit Yadav over some folk music. On seeing this, complainant intervened and thereafter returned home. After sometime, Jhunit Ram carrying knife in his hand came inside his house, abused him and assaulted on his palm as a result of which he sustained injury. Report was lodged by the complainant at police Station Nandghat. Investigation was done and charges were framed against the accused/applicant under Section 325/34 IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 8 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 27.04.2011, learned Magistrate has convicted the accused/applicant for the offence under Sections 324 and 458 IPC and has sentenced to undergo RI for three months and fine of Rs. 500/- on both counts, with default stipulations. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence awarded to the applicant. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing the

revision as far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to the counsel for the applicant, the incident is said to have taken place in the year 2010 and the applicant has already remained in jail for about 25 days, looking to the over-all circumstances and the fact that the accused has remained behind the bars for considerable time, it will be just and proper if the sentence awarded by the trial court for offence under Sections 324 and 458 IPC and affirmed by the appellate court is reduced to the period already undergone by him while maintaining the amount of fine in the sum of Rs. 500/-. To this, counsel for the State has no serious objection.

7. Looking to the facts and circumstances of the case, since applicant has already suffered jail sentence of 25 days out of three months jail sentence, he is sentenced for the period already undergone by him.

8. Thus, the impugned judgment of conviction of applicant under Sections 324 and 458 IPC passed by learned Trial Court, which has been affirmed by learned Appellate Court, is hereby affirmed. Applicant is reported to have remained in jail for a period of 25 days, his sentence is reduced to the period already undergone by him.

6. Resultantly, this revision application succeeds in part.

Sd/-
(Rajani Dubey)
Judge