

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 246 of 2013**

1. Raja Mehar S/o Pardeshiram Mehar Aged About 18 Years, R/o Village Chapora, Thana Dharsiwan District- Raipur, C.G.
2. Chandradev Mehar S/o Pardeshiram Mehar Aged About 29 Years, R/o Village Chapora, Thana Dharsiwan District- Raipur, C.G.

---- Applicants**Versus**

- State Of Chhattisgarh, Through : P.S.- Dharsiwan Raipur, C.G.

---- Respondent

For Appellants	:	Mr. Akhilesh Kumar, Advocate.
For Respondent/State	:	Mr. Wasim Miyan, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****26.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 06.04.2013 passed by the learned Sessions Judge, Raipur, in Cr. Appeal No. 53/2013 whereby, the learned appellate Court below has dismissed the appeal in respect of applicant No. 1 Raja Mehar, and confirmed the conviction and sentence of the accused/applicant No. 2 Chandradev Mehar as awarded by the learned Judicial Magistrate First Class, Raipur, vide its judgment dated 21.01.2013 in Criminal Case No. 1444/2012 for the offence under Sections 325 and 323 of IPC & sentenced Raja Mehar (Applicant No. 1) to undergo R.I. for three months and fine of Rs. 1000/- and Chandradev Mehar (Applicant No. 2) to undergo R.I. for three months and fine of Rs. 1000/- with default stipulation respectively, which is modified by the learned Sessions Judge, Raipur, C.G. as under:-

S. No.	Name of the Accused/ Applicants	Offence U/s	R.I.	Fine
1.	Raja Mehar	325	3 months	Rs. 1000/- plus default stipulation.
2.	Chandradev Mehar	323	1 months	Rs. 1000/- plus default stipulation.

2. Brief facts of the case are that on 01.02.2011 when complainant Dehrin Bai, neighbour of the applicants/accused was going to answer the call of nature the accused/applicants assaulted her with stick hurling abuses. An FIR was lodged. After completion of investigation, charge sheet was filed and charges were framed against accused/applicants under Sections 294, 323/34, 325/34 and 506-B of IPC.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 9 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the circumstances appearing 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 21.01.2013, learned Judicial Magistrate has acquitted the applicants of the offence punishable under sections 294 and 506-B, and convicted and sentenced accused/applicant Raja Mehar for the offence under Section 325 of IPC and accused/applicant Chandradev Mehar for the offence under Section 323 of IPC & sentenced them to undergo R.I. for 3 months with fine of Rs. 1000/- plus default stipulation. This order was appealed by the applicants, and in the appeal, learned Appellate Court has confirmed the conviction and sentence of the applicant No. 1 (Raja Mehar) and modified the sentence of the applicant No. 2 (Chandradev Mehar) as mentioned above in para 1 of the order. Hence, the present revision.

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

6. Counsel for the applicants submits that he is not pressing this 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 him. The incident is said to have taken place in the year 2011 and thereby more than 9 years have rolled by since then. He submitted that the applicants have remained in jail for more than 20 days. Therefore, it would be appropriate in the interest of justice, that sentence imposed upon them may be reduced to the period already undergone by them.

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 including Dehrin Bai (PW-1), Chaitram (PW-2), Ashok Kurre (PW-5), Dr. Snehlata Singh (PW-6), Johan Singh Nag (PW-7), Tekram Sahu (PW-8), and Dr. Ashish Nigam (PW-9), 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 applicants under Sections 325 and 323 of IPC being so they are hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2011, and further that the applicants had already remained in jail for more than 20 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 applicants, they are sentenced to the period already undergone by them. The applicants are on bail. Their bail bond shall stand discharged.

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