

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Criminal Appeal No.638 of 2015**

1. Deepak Das Baghel, son of Tusi Das Baghel, age 21 years, Caste Mahara,
2. Sujeet Das Baghel, son of Sukh Das Baghel, age 20 years, Caste Mahara,

Both R/o Maharapara, village Badedharaoor, Thana Lohandiguda, District Bastar, Chhattisgarh

**---- Appellants**

**versus**

State of Chhattisgarh through Ajak Police Station Lohandiguda, District Bastar, Chhattisgarh

**--- Respondent**

|                |   |                                      |
|----------------|---|--------------------------------------|
| For Appellants | : | Shri Alok Kumar Dewangan, Advocate   |
| For Respondent | : | Shri Anand Verma, Dy. Govt. Advocate |

**Hon'ble Shri Justice Arvind Singh Chandel**

**Judgment on Board**

**26.8.2019**

1. The instant appeal has been preferred against the judgment dated 22.4.2015 passed by the Special Judge under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (henceforth 'the Act'), Bastar at Jagdalpur in Special Sessions Trial No.2 of 2014, whereby each of the present Appellants has been convicted and sentenced as under:

| <b><u>Conviction</u></b>                                        | <b><u>Sentence</u></b>             |
|-----------------------------------------------------------------|------------------------------------|
| Under Section 323 read with Section 34 of the Indian Penal Code | Rigorous Imprisonment for 3 months |

2. Facts, in brief, are that on 3.5.2014, Complainant Balsingh lodged a report alleging that on 2.5.2014 when he along with his friends Ravindra Singh and Kedar Baghel went to attend the marriage ceremony in the house of Moolchand Singh, at that time, the

present Appellants and co-accused Sukhdas Baghel and absconded accused Sunil Baghel assaulted him with hands, fists and club and as a result of the assault he sustained injuries. It was also alleged that he was abused by his caste and he was threatened of life also. On the basis of his report, offence was registered. Statements of witnesses were recorded. On completion of the investigation, a charge-sheet was filed against the accused persons for offence punishable under Sections 323, 506B read with Section 34 of the Indian Penal Code and Section 3(1)(x) of the Act.

3. In support of its case, the prosecution examined as many as 12 witnesses. In examination under Section 313 of the Code of Criminal Procedure, the accused persons denied the guilt and pleaded false implication. No witness has been examined in their defence.
4. On completion of the trial, vide the impugned judgment, the Trial Court acquitted co-accused Sukhdas Baghel of all the charges framed against him, but convicted and sentenced the present Appellants as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellants submits that he does not want to press this appeal on merits and confines his arguments to the sentence part only. He submits that only simple injury was received by victim/Complainant Balsingh. The *lis* is pending since 2014. The Appellants have no criminal antecedent. The occurrence had taken place suddenly. During trial, the Appellants have remained in jail for 2 days. They are on bail. Considering the facts and circumstances of the case, it would not

be appropriate to send them back to jail.

6. Learned Counsel appearing for the State opposes the above submission and supports the impugned judgment of conviction and sentence.
7. I have heard Learned Counsel appearing for the parties and perused the record with due care.
8. Taking into consideration the submissions put forth on behalf of the parties, the conviction imposed upon the Appellants under Section 323 read with Section 34 of the Indian Penal Code is affirmed.
9. As regards sentence part, considering that the Appellants have already undergone jail sentence of 2 days, they have no known criminal antecedent and the *lis* is pending since 2014, it would be in the interest of justice to sentence them with the period already undergone by them and with fine of Rs.1,000/- each. Ordered accordingly. The fine of Rs.1,000/- shall be payable by each of the Appellants within 15 days from the date of receipt of a copy of this judgment. In case of default, each of them shall be liable to undergo additional simple imprisonment for 1 month.
10. Consequently, the appeal is allowed in part to the extent indicated above.
11. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-

**(Arvind Singh Chandel)**  
**Judge**