

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 50 of 2016**

- 1) Durgesh S/o Panch Ram Mahara, aged about 21 years,
- 2) Panch Ram S/o Ramprasad Mahara, aged about 37 years,
Both R/o Village Lohari P.S. Marwahi, District Bilaspur (C.G.)

---- Appellants**Versus**

State of Chhattisgarh, Through Incharge Police Station Marwahi, Distt. Bilaspur (C.G.)

---- Respondent

For Appellants	:	Ms. Usha Chandrakar, Advocate
For Respondent	:	Mr. Alok Nigam, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**09/12/2019**

1. This appeal has been preferred against the judgment dated 23/11/2015 passed in Sessions Trial No. 30/2014 by the Additional Sessions Judge, Pendra Road, whereby the Appellants have been convicted under Section 307/34 of the Indian Penal Code and sentenced to undergo RI for 7 years and to pay fine of Rs. 200/- with default stipulation.
2. Facts of the case are that on 08/02/2014 at about 6:30 pm, Complainant Sunita Bai was sitting along with his son in her courtyard. At that time, Appellant Panchram abused her from his house. When husband of the Complainant namely Rohit came there and tried to intervene, it is alleged that the Appellants and other co-accused

persons assaulted Rohit by a Tangiya due to which Rohit sustained grievous injuries. The matter was reported by Sunita. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. As many as 7 prosecution witnesses have been examined. No defence witness has been examined. Statements of the Appellants under Section 313 of the Cr.P.C have been recorded, wherein they have pleaded their innocence and false implication in the matter.

3. After trial, the trial Court has convicted sentenced the Appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellants submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the Appellants have undergone almost 6 years out of total jail sentence of 7 years and they have no criminal antecedent, therefore, he prays that the jail sentence awarded to the Appellants may be reduced to the period already undergone by them.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 7 years, the Appellants have undergone about 6 years, they are facing the *lis* since

2014 and there is no criminal antecedent against them, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail sentenced awarded to them is reduced to the period already undergone by them.

8. Consequently, the appeal is partly allowed. The conviction of the Appellants under the aforementioned sections is affirmed and they are sentenced to the period already undergone by them. The fine sentence is affirmed.
9. It is reported that the Appellants/accused are in jail since 11/03/2014. They be released forthwith, if not required in any other case.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge