

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1136 of 2018**

Lokesh Tiwari S/o Bhagwati Tiwari Aged About 50 Years R/o Village Kampa ,
Police Station Bemetara, District Bemetara Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through District Magistrate, Bemetara, District Bemetara
Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Yogesh Pandey, Advocate
For Respondent	:	Mr. Amit Singh, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****01/03/2019**

1. This revision has been filed against the judgment dated 07/09/2018 passed in Criminal Appeal No.15/2018, by the Additional Sessions Judge, Bemetara, District Bemetara arising out of order dated 07/02/2018 passed in Criminal Case No.271/2016 by the Chief Judicial Magistrate, Bemetara, whereby the Applicant has been convicted under Section 326 of the IPC and sentenced to undergo RI for three years and to pay fine of Rs.100 with default stipulation.
2. As per prosecution story on 28/05/2016, the Complainant made a report before the Police Station stating therein that the Applicant abused him and assaulted him with hands and fist. The Applicant also

bitten his right ear. On the basis of said report offence u/s 294, 506-II and 326 of the IPC was registered against the Applicant. A charge sheet has been filed and charges were framed.

3. After Trial, the Trial Court has convicted the Applicant under Section 294, 506-B and 326 of the IPC and sentenced him to undergo RI for three months, RI for three months and RI for five years, respectively with default stipulation. In an appeal preferred by the Applicant, the Appellate Court partly allowed the appeal and acquitted the Applicant from the charges u/s 294 and 506 B of the IPC, however, convicted him u/s 326 of the IPC and sentenced him as mentioned in Para 1 of this order. Hence, this revision.
4. Learned counsel appearing for the Applicant submits that he doesn't want to press this revision on merits and confines his argument to the sentence part only. It is further submitted that the matter is of the year 2016, the applicant is facing the 1165 /s since three years and the Applicant has undergone about 2 years and 10 months out of total Jail sentence of 3 years. Therefore, he prays that the Jail sentence awarded to the Applicant may be reduced to the period already undergone by him.
5. Per contra, learned counsel appearing for the state supported the impugned judgments and submits that the sentence awarded by the Appellate Court is just and proper and requires no interference.
6. I have heard learned counsel appearing on behalf of the parties and perused the records minutely.
7. Considering the above facts and circumstances of the case,

particularly, considering that out of total jail sentence of 03 years, the1165 applicant has undergone about 2 years and 10 months, and he is facing the *lis* since three years, I am of the view that the ends of justice would be made if, while upholding the conviction imposed upon the Applicant, the jail sentence awarded to him is reduced to the period already undergone by him.

8. Consequently, the revision is partly allowed. The Applicant is convicted under Section 326 of the IPC and sentenced to the period already undergone by him. The fine sentence is also affirmed.
9. It is reported that the Applicant is in Jail. He be released, forth with, 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