

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 1141 of 2016

1. Dayaram, S/o. Dashru, Aged About 34 Years
2. Balram, S/o. Maansingh, Aged About 45 Years
3. Santu, S/o. Suknath, Aged About 32 Years
4. Fohadu, S/o. Suknath, Aged About 35 Years
5. Arjun, S/o. Suknath, Aged About 29 Years
6. Sonsay, S/o. Maansingh, Aged About 29 Years,
7. Manhagu, S/o. Maansingh, Aged About 37 Years,
8. Dhaniram, S/o. Dashru, Aged About 39 Years
9. Kanti, S/o. Mangal, Aged About 29 Years
10. Maanku, S/o. Mangal, Aged About 27 Years,

All By Caste Muriya, R/o. Kalipara, Maalgaon, Police Station
Kondagaon, Civil and Revenue District Kondagaon, Chhattisgarh.

---- Applicants

Versus

State of Chhattisgarh, Through : The District Magistrate, Kondagaon, Police
Station Kondagaon, District Kondagaon Chhattisgarh.

-----Respondent

For Applicants	: Mr. P.K. Tulsyan, Advocate
For State	: Mr. Sanjay Pathak, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

04/12/2019

1. This revision has been brought challenging the legality, correctness
and propriety of the judgment dated 05.12.2016, passed in Cr.A.

No.08/2016, whereby the learned Appellate Court has maintained the judgment of conviction and order of sentence dated 08.03.2016, passed in Criminal Case No. 583 of 2012, passed by the Court of Chief Judicial Magistrate, Kondagaon, District – Kondagaon (C.G.) for the offence under Section 147 and 323/149 of the Indian Penal Code.

2. According to the prosecution case on 27.02.2009 at about 9.00 AM in the morning, the applicants of whom the applicant No.9 is now dead, formed an unlawful assembly and because of some previous dispute with the complainant – Jailal Korram was abused and assaulted by them causing injuries to him. After lodging of FIR, the case was investigated and charge-sheet was filed against the applicants including the deceased applicant No.9. The trial Court in Criminal Case No.583 of 2012 vide judgment dated dated 08.03.2016 convicted all the accused for offence under Section 147, 323 read with Section 149 of I.P.C. and sentenced with imprisonment of six months along with fine of Rs.300/- separately for both the offences to each of the applicants with default stipulations. This judgment of conviction and order of sentence was challenged before the appellate Court in which the judgment of trial Court was upheld.
3. It is submitted by the learned counsel for the applicants that the applicants are now no longer want to contest the order of conviction against them. The applicants have already undergone some period in jail. The applicants are facing trial and prosecuting the appeal since about 10 years giving appearance before the different Courts

including this Court. Therefore, they have suffered sufficient harassment and hardship in contesting this case for long period. The conviction against them is for the offences of petty nature, therefore, the sentence imposed upon the applicants by the trial Court and affirmed by the appellate Court may now be reduced to the period of detention already undergone by them in jail.

4. State counsel opposes the petition and submission made in this respect submitting that the prosecution has proved its case beyond all reasonable doubt. Therefore, there is no need for giving any reduction in sentence to the applicants.
5. I have heard the learned counsel for the parties and perused the documents placed on record.
6. Considered on the submissions made and also considering on the nature of the case against the applicants and the evidence brought against them by the prosecution. As at this stage, the applicants are not contesting the conviction against them, therefore, there is no point in discussing the evidence. Prayer of reduction in sentence is taken into consideration. It appears that there is no mention of any previous criminal history of the applicants in the record of the trial Court present before this Court and apart from that there is nothing to suggest that these applicants have misused the liberty given to them during the pendency of trial, appeal and this revision. Further almost 10 years have passed since the applicants are facing the prosecution and challenging the conviction against them. Therefore, these are mitigating circumstances in their favour, therefore, I feel inclined to allow this prayer made for reduction of sentence.

7. Accordingly, the revision petition is allowed with modification. The conviction against the applicants is upheld, however, the sentence imposed upon them as mentioned herein above is reduced to the period of detention already undergone by them in jail.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram