

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 358 of 2008

1. Goverdhan Singh Thakur, S/o Bhuwan Singh Thakur, aged about 57 years, R/o Gitanagar, Bhanpuri Raipur, District Raipur (C.G.)
2. Baljit Singh, S/o Goverdhan Singh Thakur, aged about 20 years, R/o Gitanagar, Bhanpuri, District Raipur (C.G.)
3. Nagendra Singh, S/o Goverdhan Singh Thakur, aged about 22 years, R/o Gitanagar, Bhanpuri, District Raipur (C.G.)
4. Khemendra Singh, S/o Goverdhan Singh Thakur, aged about 24 years, R/o Gitanagar, Bhanpuri, District Raipur (C.G.).

---- Appellants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Khamtarai, District Raipur (C.G.)

---- Respondent

For Appellants	:	Mr. Tarun Dansena, Advocate.
For Respondent/State	:	Mr. Ajay Kumrani, Panel Lawyer.
For Objector	:	Mr. Govind Dewangan, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

04/03/2020

1. This appeal has been preferred against the judgment dated 26/02/2008 passed in Sessions Trial No. 154/07 by the 9th Additional Sessions Judge (FTC), Raipur, District Raipur (C.G.), whereby the Appellants have been convicted under Sections 147, 148, 307/149 of the Indian Penal Code and sentenced to undergo RI for 1 year, RI for 2

years and RI for 10 years and to pay fine of Rs. 200/- with default stipulation. Appellants No. 1 & 3 has been convicted under Sections 25 & 27 of the Arms Act and to pay fine of Rs. 100/- with default stipulations. All the sentences run concurrently.

2. It has been reported that Appellant No. 1 Goverdhan Singh Thakur and Appellant No. 3 Nagendra Singh after completion of their entire jail sentence imposed upon them by the Trial Court, released from jail on 15.08.2012. Since, both the Appellants have completed their entire jail sentence and already released from jail, therefore, learned Counsel for the Appellants does not want to press this appeal with regard to Appellant No. 1 Goverdhan Singh Thakur and Appellant No. 3 Nagendra Singh. Hence, this appeal is dismissed as withdrawn with regard to Appellants No. 1 & 3.
3. Facts of the case are that on 04.03.2007, at about 12 PM, complainant Suresh Bairagi (PW-5), proceeded from his house to celebrate Holi. At about 1 O' clock one Deepak Bairagi came in the house and expressed before Raju Bairagi that Goverdhan Singh and others doing *marpeet* with sword to Suresh Bairagi. On hearing this Raju Bairagi run to the spot and he saw that all the Appellants committed *marpeet* with the help of sword due to that Suresh Bairagi fell down on the ground and sustained injuries on his body. Thereafter, Raju Bairagi has lodged FIR vide Ex. P-16. During course of investigation, on the basis of memorandum statements of Appellants Goverdhan and Nagendra, swords were seized from them. Statement of witnesses recorded under Section 161 of Cr.P.C. After completion of investigation, a

charge-sheet was filed. Trial Court framed the charges. As many as 12 prosecution witnesses have been examined. No defence witness has been examined. Statements of Appellants No. 2 & 4 under Section 313 of the Cr.P.C have been recorded, wherein they have pleaded their innocence and false implication in the matter.

4. After trial, the trial Court has convicted and sentenced the Appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
5. Learned Counsel appearing for Appellants No. 2 & 4 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 both the parties have settled their matter and an application under Section 482 of Cr.P.C. for grant of permission to compromise has already been filed. The Counsel further submits that the Appellants have undergone about 1 year 5 months out of their total jail sentence, they have no criminal antecedent and they are facing the *lis* since 2007, therefore, he prays that the jail sentence awarded to the Appellants may be reduced to the period already undergone by them.
6. Per contra, learned Counsel appearing for the State and objector supported the impugned judgment and submit that the sentence awarded by the trial Court is just and proper and requires no interference.
7. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.

8. Considering the above facts and circumstances of the case, particularly considering that both the parties have settled their matter and an application under Section 482 of Cr.P.C. for grant of permission to compromise has already been filed, further considering the fact that out of total jail sentence of Appellants no. 2 & 4, they have already undergone about 1 year 5 months, they are facing the *lis* since 2007 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 No. 2 & 4, the jail sentenced awarded to them is reduced to the period already undergone by them.
9. Consequently, the appeal is partly allowed. The conviction of the Appellants no. 2 & 4 under the aforementioned sections is affirmed and they are sentenced to the period already undergone by them. The fine sentence is affirmed.
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