

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 807 of 2008

1. Mulchand S/o. Shri Ramgopal Chaurasiya, aged about 46 years,
2. Sandeep @ Sonu S/o. Shankar Prasad Chaurasiya, aged about 22 years,
3. Vishnu S/o. Mulchand Chaurasiya, aged about 22 years,
4. Sujeet @ Monu Chaurasiya S/o. Shankar Prasad Chaurasiya, aged about 19 years,
5. Raju S/o. Jagdish Chaurasiya, aged about 19 years

All the resident of village Khodri, P.S. Gaurela, District Bilaspur (CG)

---- **Applicants**

Versus

State of Chhattisgarh, Through Police Station Gaurela, District Bilaspur (C.G.)

---- **Respondent**

For Applicants : Mr. Yogendra Chaturvedi, Advocate
For Respondent : Mr. Anand Verma, Dy. Govt. Advocate
For complainant : Mr. Basant Dewangan, Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

03.12.2020

This revision petition under Section 397 read with section 401 CrPC has been filed by the applicants being aggrieved by the judgment dated 17.12.2008 passed by Additional Sessions Judge, Pendra Road, District Bilaspur in Criminal Appeal No. 30/2008, whereby modified the judgment dated 07.03.2008 passed by Judicial Magistrate First Class, Pendra Road in Criminal Case No. 68/2006, by which the applicants have been convicted

under Sections 147, 452 and 323/149 IPC and sentenced them to pay fine of Rs. 1000/- under Section 147, SI for 3 months and to pay fine of Rs. 200/- under Section 452 IPC and to pay fine of Rs. 1000/- under Section 323/149 IPC with default stipulations.

- 2.** As per prosecution case, on 09.08.2002 at about 12.00 AM, complainant namely Ramesh Kumar was serving tea to the customer at his hotel. At that time, applicants came there and hurled filthy language and beaten the complainant with the stick. As a result of which, he sustained injuries on his body. Thereafter, FIR (Ex.P-1) was lodged against the applicants in Police Station. After completion of investigation, charge sheet was filed against the applicants for the same Sections and charge sheet was framed accordingly.
- 3.** Learned Judicial Magistrate First Class Pendra Road framed charges against the applicants for the offences under Sections 147, 452, 294 and 323/149 IPC. After trial, the trial Court convicted the applicants and sentenced them as stated herein above. Against the judgment of the trial court, the appeal was preferred wherein the judgment of the trial Court was modified. Hence, this revision petition.
- 4.** During pendency of this revision, both the parties have filed IA No.01/2020 and IA No.02/2020 for acquittal of the applicants on the basis of compromise arrived at between the parties.
- 5.** The factum of compromise has been verified by the Additional Registrar (Judicial) of this Court on 16.03.2020, who has verified the deed of compromise and recorded the statement of

complainant Ramesh Kumar and thereafter submitted his report that the parties have arrived at compromise voluntarily without any fear or force. The verification report further states that the offences under sections 147,323/149 IPC are compoundable but the offence under Section 452 IPC is not compoundable, as per Section 320 CrPC.

- 6.** Thus, No.01/2020 and IA No.02/2020 are allowed in part. The impugned judgment dated 22.2.2017 passed by Additional Sessions Judge, Pendra Road, District Bilaspur in Criminal Appeal No. 30/2008 is set aside so far it relates to conviction of the applicants for the offence punishable under section 147 and 323/149 IPC and the applicants are acquitted from the aforesaid offences.
- 7.** However, since the offence under Section 452 IPC is not compoundable and the applicants are convicted of the said offence, therefore, learned counsel for the applicants submits that he is not challenging the conviction for the offence under Section 452 IPC passed by the Courts below but he prays for sympathetic consideration on the point of sentence.
- 8.** After considering the evidence available on record, the offence under Section 452 IPC is found proved beyond reasonable doubt but keeping in view the compromise arrived at between the parties, which is duly verified by the Office of this Court, the conviction against the applicants for the offence under Section 452 IPC is hereby maintained. However, the sentence awarded

for the said offence is reduced to the sentence already undergone by the applicants.

9. Revision allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh