

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 983 of 2008

1. Arun Kumar Soni S/o. Suraj Prasad Soni, aged about 35 years, Resident of Vandana, Police Station and Tahsil Sitapur, District Surguja (CG)
2. Ravindra Kumar Soni S/o. Prasad Soni, aged about 28 years, Resident of Vandana, Police Station and Tahsil Sitapur, District Surguja (CG)
3. Vishvanath Soni, S/o. Hari Prasad Soni, aged about 35 years, Resident of Sapkara, Police Station Vishrampur, District Surguja (CG)

---- **Appellants**

Versus

State of Chhattisgarh, through Police Station Sitapur, District Surguja (C.G.)

---- **Respondent**

For Appellants : Ms. Meera Ansari, Advocate.

For Respondent : Mr. Sameer Sharma, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Judgment on Board

04.09.2020.

The prosecution case in short is that on 17.11.2007, the appellant No.1 had gone to the field of complainant Suhani Bai (PW-1) where he cut the crops standing in the field and when the complainant tried to stop him then he stated that the said land was sold by her husband

through registered sale deed. It is alleged that on the same day, when she was sleeping in her house then the appellant along with co-accused came there hurled filthy languages, gagged her mouth and dragged her towards his house where they committed marpit with her. As a result of which she was feeling pain in her head. It is also alleged that on hearing her voice, brother of the complainant namely Lalit (not examined) intervened in the matter then the appellants committed marpit with him. FIR (Ex.P-1) was lodged by (PW-1) in police station. After completion of investigation, charge sheet was filed against the appellants under Sections 294, 506, 323/34 IPC and 3(1-10) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) followed by framing of charge accordingly.

2. Learned Court below vide judgment impugned dated 04.10.2008 passed in Special Sessions Case No. 39/2008 acquitted the accused/appellants under Sections 506 IPC and 3(1-10) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) but has held them guilty under Section 294 and 323/34 IPC with imposition of sentence of fine and pay Rs. 1000/- each under Section 323/34 and to pay fine of Rs. 500/- each under Section 294 IPC. Hence, this appeal.

3. Counsel for the appellants submits that the judgment of conviction and order of sentence passed by trial court is arbitrary, illegal and contrary to the evidence collected by the prosecution. He submits that there is material contradiction and omission in the FIR which makes the statement of complainant Suhani Bai (PW-1) is totally

unreliable witnesses. He further submits that there is previous enmity with the family members of the appellants and the complainant regarding land but the same is overlooked by the trial court. He submits that the trial court has not evaluated the evidence properly, therefore, the finding arrived at by the trial court is liable to be set aside.

4. On the other hand, state counsel supporting the impugned judgment has submitted that the judgment of the trial Court is strictly in accordance with law and well founded and there is no illegality or infirmity in it warranting any interference by this Court.

5. Heard counsel for the parties and perused the material available on record including the judgment impugned.

6. From the evidence of complainant (PW-1), it is thus established that there were enmity between the parties regarding the previous land related dispute and probably in pursuance of that the appellants along with co-accused came and knocked the door of the house and when it was opened by the complainant, appellant No.1 closed her mouth from his hand and co-accused persons lifted her and taken her away towards the house of the appellant No.1 where they committed *marpit* with hands and fits. Thereafter, when she shouted for help, her brother Lalit (not examined) came and intervened in the matter but he too was beaten up by the appellants with hands and fits. The court below is thus rightly convicted the accused/ appellants under Section 294 and 323/34 IPC, considering the evidence collected by the

prosecution. No legality is there in the judgment impugned. Appeal being without any substance is liable to be dismissed and is hereby dismissed as such.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh