

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1558 of 2017

1. Rajesh Kumar S/o Gopal Prasad Gabel, Aged About 35 Years.
2. Satyanarayan @ Hero Gabel, S/o Late Motichand Gabel, Aged About 32 Years.
3. Hitesh Kumar@ Raju Gabel. S/o Govind Ram Gabel, Aged About 30 Years

All are R/o Village Bandora, P. S. Malkharoda, District Janjgir
Champa Chhattisgarh. **---- Appellants**

Versus

State of Chhattisgarh Through The Police Station Dabhara, District
Janjgir Champa Chhattisgarh. **---- Respondent**

Appellants are present in person along with their counsel Mr.
Ishwar Jaiswal, Advocate

For State :Mrs. Shubha Shrivastava, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment on Board

29/01/2020

1. This appeal is preferred against the judgment dated 26th of September, 2017 passed by learned Second Additional Sessions Judge, Shakti, District-Janjgir- Champa (C.G.) in Sessions Trial No. 144/2015, wherein the said Court convicted the appellants for commission of offence under Section 323/34 and 325/34 of Indian Penal Code, 1860 and sentence them to undergo R.I. for 1 year and fine of Rs. 1000/-, R.I. for 3 years and fine of Rs. 5000/- with default stipulations for causing grievous injury to Hulas Ram and Sudhir Kumar Patel injured/victim
2. As appellants and complainants also have filed application under Section 320(2) of the Cr.P.C. for compounding the offence under Section 325/34 with permission of the Court.

3. On due consideration, permission is granted to compound the offence. As a result of compounding the offence, appellants are acquitted of the charge under Section 325 read with Section 34 of IPC.
4. The Appellants have also been convicted under Section 323 read with Section 34 of IPC and R.I. for 1 year with default stipulation for causing simple injury to injured Sudhir Kumar Patel. Therefore, arguments on behalf of the appellants for their conviction heard on merit under Section 323 read with Section 34 of IPC.
5. In the present case, on 13.06.2015 at about 1.30 pm at main road of village Bhatha near market area, the appellants assaulted the complainant namely Hulas Ram and Sudhir Patel and also threatened them to cause death. Thereafter, the matter was reported and complainant lodged F.I.R. at Police Station Sakti, which was registered in zero (without number) (Ex.P-1) and the appellants were convicted for offence under Section 323/34 of IPC for causing voluntary hurt to the complainant Sudhir Kumar Patel.
6. As per version of injured Sudhir Kumar Patel(PW-2), all the appellants assaulted him. Version of this witness is supported by version of Ramesh Kumar (PW-3) and Jitendra Patel (PW-4). All these witnesses have been subjected to searching cross examination but nothing could be elicited in favour of defence. Version of these witnesses is supported by version of Dr. Anil Kumar Choudhari (PW-13) who found simple

lacerated wound on left parietal region, contusion lacerated wound on left side of head with swelling and noticed flowing out blood from the wound and minor scratches have also been noticed on left thumb, right leg and thigh. Appellants knew that their act will cause pain to the body of the complainant, therefore, their act is voluntary in nature and same falls within mischief Section 323/34 of IPC and conviction for the same is hereby affirmed.

7. The appellants have suffered jail term from 06.07.2015 to 14.08.2015 i.e. 40 days. Jail sentence awarded to the appellants for offence under Section 323/34 is reduced to the period already undergone by them, however, fine amount imposed by the trial Court shall remain intact.
8. With this modification, the appeal is partly allowed.

Sd/-
(Ram Prasanna Sharma)
Judge