

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 425 of 2011

Manharan S/o. Keju Ram Yadav, aged about 50 years, R/o. Muhmela Chowki, Gidhpuri, Police Station Palari, District Raipur (CG)

---- Applicant

Versus

State of Chhattisgarh, Through District Magistrate, Raipur District Raipur (CG)

---- Respondent

For Applicant : Mr. Anil Singh Rajput, Advocate
For Respondent : Mr. Anand Verma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 18.03.2021

The charge against the accused/applicant under Sections 323 IPC for allegedly committing marpit on the face of the complainant (PW-1) with the help of tiffin box, which he was kept in his hand at the time of incident. As a result which, two teeth of complainant (PW-1) were broken from his mouth and thereafter the applicant fled from the place of occurrence. The matter was reported to police and the offence under Section 325 IPC was registered against him. After completion of the investigation, charge sheet was filed for the said section against the applicant.

2. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Section 323 IPC and imposed the sentence of SI for four months and to pay fine of Rs. 500/- with default stipulation. In appeal, learned lower Appellate Court also affirmed

the findings recorded by the Magistrate in *toto* vide judgment impugned dated 27.07.2011 passed in Criminal Appeal No. 9/2011. Hence this revision.

3. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. From the evidence of complainant (PW-1), it is clear that on the date of incident when he was returning to his home, he met with the applicant on the way, and when he touched the feet of the applicant for blessing then the applicant committed marpit with the tiffin box on his mouth and his two teeth were broken from the said marpit. Ramlal (PW-2) and Hemlal (PW-3) have supported the statement of the complainant and stated that the applicant had committed marpit with the complainant (PW-1). Both these witnesses also remained firm during their cross-examination. Nohruddin (PW-4) is the village panch and witness to the seizure, who has also supported the case of the prosecution and proved the seizure (Ex.P-2).

6. Dr. F.R. Nirala (PW-7) has stated that he examined the complainant on 04.08.2001 and gave his report (Ex.P-3) in which he found abrasion left side over the upper lip in the size of $\frac{1}{2}$ cm x $\frac{1}{3}$ cm, swelling at the centre of both the teeth, which was a simple injury. From this also, it is corroborated that the applicant had

committed marpit with the complainant on his mouth, this Court does not see any illegality or infirmity in the judgment impugned. Accordingly, the findings so recorded are hereby maintained.

7. As regards sentence, considering the fact that the incident had occurred in the year 2009 and since then considerable period has passed by and further that the accused/applicant has remained in jail for about two days, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

8. Revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE