

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 444 of 2006**

- Devnandan @ Dewak Sahu S/o Keshav Sahu Aged About 37 Years, R/o Village Koma, Thana And District Mahasamund, Chhattisgarh.

---- Appellant**Versus**

- State of Chhattisgarh, Through : The District Magistrate, Mahasamund, District Mahasamund, Chhattisgarh.

---- Respondent

For Appellant	:	Ms. Indira Tripathi, Advocate.
For Respondent/State	:	Mr. Sameer Sharma, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****13/08/2021**

1. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 25.05.2006 passed by the learned II Additional Sessions Judge, Mahasamund, in S.T. No. 119/2006 whereby, the learned II Additional Sessions Judge, Mahasamund convicted the appellant and sentenced him as under :-

S. No.	Conviction	Sentence
1.	U/s 324 of IPC	R.I. for 1 year and fine of Rs. 2000/- in default of fine additional R.I. for 2 moths.

2. Brief facts of the case are that complainant Sanjay Chandrakar works as a contractor in Bhilai Sector-2. His agricultural land is in village Koma, which he had given to the accused/appellant on a Sikami (Rendh), on 28.01.2006 when the complainant visit at village Koma for receiving the amount but the appellant did not return the amount and about 9:15 PM., when the appellant and the complainant return by Motorcycle on the way

appellant say that he is coming after seeing whether the pump is on or not, got off his motor cycle and came back after going some distance, caused injury on the head of the complainant with the intention of killing the complainant with a sharp weapon like Basula, then the complainant to save his life, he ran towards the village and there he told the village Sarpanch Manoj and other people about the incident and lodged a report in the police station Mahasamund.

3. So as to hold the accused/appellant guilty, the prosecution has examined as many as 9 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges levelled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 25.05.2006, learned sessions Judge, Mahasamund has convicted and sentenced the appellant for the offence under Section 324 of IPC and sentenced him to undergo R.I. for 1 year and fine of Rs. 2000/- in default of fine additional R.I. for 2 moths. Hence, the present appeal.

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

6. Counsel for the appellant submits that he is not pressing the appeal so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2006, and thereby more than 15 years have rolled by since then. He is aged about more than 50 years. The appellant is in jail for about four months, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned counsel for the State has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses Rikhiram Chandrakar (PW-1), Manoj Chandrakar

(PW-2), Mahesh Diwan (PW-3), Pawan Kumar (PW-4), Dr. N.K. Manhabe (PW-5), Manharan (PW-6), Sanjay Chandrakar (PW-7), Durgesh Soni (PW-8) and G.N. Baghel (PW-9), establishes the involvement of the accused/applicant in the crime in question and stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by the Court below as regards conviction of the appellant under Section 324 of IPC.

9. As regards sentence, keeping in view the facts that the incident had taken place in the year 2006, and further that the appellant had already remained in jail for about four months, therefore, I am of the view that ends of justice would be served, if the sentence imposed on him is reduced to the period already undergone by him.

10. Accordingly, the appeal is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him. The appellant is on bail. His bail bonds shall stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**