

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 700 of 2002**

1. Ambikeshwar Singh S/o Rambilas Singh Gond aged about 40 years, Occupation - Agriculture, R/o Village - Raikala, O.P. - Mundra, P.S. Dhaurpur, District - Surguja, Chhattisgarh.
2. Mohan Singh S/o Rambilas Singh Gond aged about 28 years, R/o Village - Raikala, O.P. - Mundra, P.S. Dhaurpur, District - Surguja, Chhattisgarh. (**Appeal is abated against appellant No.2 as per Court's order dated 22.09.2021**).

---- Appellants**Versus**

- State of Chhattisgarh.

---- Respondent

For Appellants	:	Ms. Laxmin Tondey, Adv.
For Respondent/State	:	Mr. Ishwar Jaiswal, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****29/09/2021**

1. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 28.06.2002 passed by the learned Ist Additional Sessions Judge, Ambikapur, District Surguja, C.G., in S.T. No. 147/1999 whereby, the learned Ist Additional Sessions Judge convicted and sentenced the appellants as under :-

S.No.	Conviction	Sentence
1.	U/s 325 r/w Section 34 of IPC	R.I. for 7 years and fine of Rs. 1,000/- in default of payment additional R.I. for 6 months.
2.	U/s 323/34 of IPC	R.I. for 1 year and fine of Rs. 500/- in default of payment additional R.I. for 3 months.

2. Brief facts of the case are that complainant Satish Kumar (PW-1) lodged a complaint alleging therein that he was having love affair with the sister of the appellants and sister of appellants also wanted to marry with him but the appellants were not ready for the marriage. It is further alleged that on 30.01.1999 at about 10:00

pm., on account of that enmity the appellants had assaulted him with rod of an umbrella near vicinity of his house and when his grandfather came to intervene, he was also assaulted as a result of which he sustained injuries over his body.

3. On 31.01.1999 complainant Satish Kumar and his grandfather Rowan were sent for medical examination to P.H.C., Dhaurpur, and on medical examination of Rowan, a lacerated wound over left side of forehead in size of 2cmx0.5cmx5cm and another lacerated wound over left chin in size of 2cmx1cm and other wound on right leg and ankle joint were found, and on the body of Satish Kumar 2 lacerated wounds 3 contusions and 1 abrasion were found. The injuries found on the body of the Satish were simple in nature, whereas injuries found on the right leg of Rowan was grievous in nature, Rowan was hospitalised in District Hospital, Ambikapur, for his treatment as indoor patient where he died on 11.02.1999 on account of septicemia and after receiving that information a Marg report (Ex.-P/23) was registered. After completion of investigation charge-sheet was filed under Sections 302/34 and 323/34 of IPC and charges were framed accordingly.

3. So as to hold the accused/appellants guilty, the prosecution has examined as many as 18 witnesses. Statement of the accused/appellants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges levelled against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 28.06.2002, learned Ist Additional Sessions Judge has acquitted the appellants for the offence punishable under Section 302/34 and convicted them as mentioned above in para 1. 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 1999, and thereby more than 22 years have rolled by since

then. Appellant No. 1 (Ambikeshwar Singh) is aged about 62 years and appellant No. 2 (Mohan Singh) has died during the pendency of the appeal. The appellant No.1 was in jail for more than 4 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 namely Satish Kumar Singh (PW-1), Rachkeliya Bai (PW-2), Baneshwar (PW-3), Dr. J.K. Bhutani (PW-4), Dr. Aazad Bhagat & G.S. Pandey (PW-5), Shivmangal Singh (PW-6), Aaftab Aalam (PW-7), B.P. Singh (PW-8), Shambhu Ram (PW-9), Krishnanath (PW-10), Soyaram (PW-11), Dr. S.K. Sinha (PW-12), R.S. Mishra (PW-13), Dabluram (PW-14) and M.S. Rathia (PW-15), Dr. M.K. Jain (PW-16) and B.N. Singh (PW-17) have established the involvement of the accused/appellants in the crime 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 appellants under Sections 325 r/w Section 34 and 323/34 of IPC.

9. As regards sentence, keeping in view the facts that the incident had taken place in the year 1999, and further that the appellant No. 1 has already remained in jail for more than 4 months and the appellant No. 1 is aged about 62 years, 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