

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No.570 of 2010**

- Dilip Kumar, S/o Abhaycharan, Aged about 28 years, R/o Village Chandibhauna, P.S. Saraipali, District – Mahasamund, Chhattisgarh

---- Applicant**Versus**

- State of Chhattisgarh, Through P.S. Saraipali, District – Mahasamund, Chhattisgarh

---- Respondent

For Applicant	:	Shri Sachin Nidhi, Advocate on behalf of Shri Y.C. Sharma, Adv.
For Respondent	:	Shri Ishwar Jaiswal, P.L.

Hon'ble Smt. Justice Vimla Singh Kapoor**Order on board****05.03.2021**

On the basis of oral information given by complainant Rohit Kumar (PW-2) recorded in the *Rojnamcha Sanha*, FIR (Ex-P/1) was registered against as many as four persons for the offence under Section 323/34 IPC. According to the report, on 24.02.2007 at about 11.00 a.m. when he along with his uncle Laxman (PW-3) had gone to irrigate their field, the accused/applicant prevented him from so doing saying that he had taken the land of Basant on pledge and he would not permit anyone to take water from his bore well. Not only this, accused Dilip and Basant threw away the pipes and did not allow Rohit to carry the water pump allegedly owned by him. The verbal feud coupled with abuses also ensued between the parties. Subsequently, in the evening at about 4.00 p.m. Dilip,

accompanied by three other persons went to the house of Rohit (PW-2) and opened an assault on him with the help of axe held by him causing injury on his forehead. The other accused persons on the other hand caused injuries to Laxman (PW-3) with the help of hands, fists and clubs on various parts of his body. After investigation the *challan* was filed and charge framed.

2. Learned Magistrate vide its judgment dated 18.01.2010 passed in Criminal Case No.389/2009 convicted the accused/applicants under Sections 323/34 and 324/34 IPC and imposed on them sentence of RI for one year with fine of Rs.1000/- under each section. However, in appeal, the conviction of the accused/applicants was maintained but the substantive sentence imposed on the other accused persons except accused Dilip was set aside and the sentence of fine was kept as it is. However, the sentence of accused Dilip was reduced to RI for one month from that of one year with fine of Rs.1000/-. Hence this revision.

3. Having heard learned counsel for the parties and perused the material available on record particularly the evidence of Rohit Kumar (PW-2), Laxman (PW-3) and Amritlal (PW-4). It is evident that the accused/applicants went to the house of Rohit Kumar (PW-2) where accused Dilip caused axe injury on his forehead, whereas the other accused persons caused injuries with the help of hands, fists and club on various parts of the body of Laxman (PW-3). The role of accused/applicant Dilip in carrying axe and causing injury with it on the forehead of Rohit Kumar (PW-2) has been clearly corroborated by PW-3 and PW-4 in categorical terms. Even the

medical evidence goes to show that a deep incised wound was present on his forehead in the size of 5x1 c.m. coupled with swelling and bleeding. The contusion on right elbow and left arm of Laxman (PW-3) has also been supported by Dr. Heeralal Jangde (PW-5). Almost all the witnesses have unanimously stated that it is the accused/applicant Dilip who was holding axe and caused injury with it on the forehead of Rohit Kumar (PW-2).

4. Having taken note of the evidence of Rohit Kumar (PW-2), Laxman (PW-3), Amritlal (PW-4) and Dr. Heeralal Jangde (PW-5) this court has no hesitation to uphold the conviction of the accused/applicant recorded by both the Courts below. It is done accordingly. However, taking into consideration the fact that the incident had taken place in the year 2007 and the cause of incident was a trivial dispute erupted over water from the bore well, this Court feels it just and proper to reduce the sentence of the accused/applicant herein to the period already undergone which in this case comes to four days. Order accordingly.

8. The revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
Judge