

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 124 of 2011**

Brijlal, S/o Saradhu, aged about 45 years, R/o Village : Khouri, P.S. - Palari,
District – Raipur, (C.G.)

---- Appellant**Versus**

State of Chhattisgarh, Through the P.S. - Vishesh Thaana, Anusuchit Jaati
Kalyan, District Raipur, (C.G.).

---- Respondent

For Appellant	:	Mr. Rishi Rahul Soni, Advocate.
For State/Respondent	:	Mr. Ghanshyam Patel, Govt. Advocate.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****10/09/2021**

1. This appeal has been preferred against the judgment dated 28/01/2011 passed in Special Sessions Trial No. 42/2009 by the Special Judge, SC/ST (Prevention of Atrocities) Act, Raipur, District Raipur, (C.G.), whereby the appellant has been convicted under Section 325 of the Indian Penal Code and sentenced to undergo R.I. for 6 months and to pay fine of Rs. 1,000/- with default stipulation.
2. Facts of the case are that on 04/03/2009 at around 4:00-5:00 PM, appellant Brijlal assaulted the complainant with the help of '*lathi*' due to which complainant sustained injuries on his wrist. It is further alleged that co-accused Bishal also assaulted the complainant with the help of

stick and also abused him in foul language. On the basis of the above background, a report was lodged and offence was registered. Statement of injured as well as other witnesses were recorded. After completion of investigation, a charge-sheet was filed under Section 294, 325, 34 of the I.P.C. and Section 3(1)(10) of the Atrocities Act. Trial Court framed the charges. As many as 8 prosecution witnesses have been examined. No defence witness has been examined. Statement of the appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the appellant has undergone about 2 months out of total jail sentence of 6 months, he has no criminal antecedent and he is facing the *lis* since 2009, therefore, he prays that the jail sentence awarded to the appellant may be reduced to the period already undergone by him.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.

7. Considering the above facts and circumstances of the case, particularly considering that appellant has undergone about 2 months out of total jail sentence of 6 months, he has no criminal antecedent and he is facing the /is since 2009, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the appellant, the jail sentence awarded to him is reduced to the period already undergone by him.
8. Consequently, the appeal is partly allowed. The conviction of the appellant under the aforementioned Section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
9. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge