

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 523 of 2010

Vimal Toppo S/o Mithur Unraon aged about 37 years, R/o Village Kardoni, P.S. Bariyon, Dhourpur, District Surguja, CG.

---- **Applicant.**

Versus

State of Chhattisgarh, through the PS Dhourpur, District Surguja (CG).

---- **Respondent**

For Applicant : Shri Hariom Rai on behalf of Shri Jitendra Srivastava, Advocate.

For State/Respondent : Shri Sameer Sharma, GA.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

04.03.2021

On the basis of information provided by complainant Jhariyaram (PW-1), an entry was made in the *Rojnamcha Sanha*, based on which FIR (Ex.P-2) was registered against the accused/applicant for the offence punishable under Section 325 IPC. It is alleged that on 16.12.1999 at about 7 am the accused/applicant herein took the complainant (PW-1) with him and asked as to who had taken his pigs away. When the complainant (PW-1) expressed his ignorance about the same, accused/applicant got angry and attacked him with a bamboo stick held by him. As a result of the said attack, injured suffered injuries on his head and also above the left eye, which led to bleeding as well. After completion of investigation charge-sheet was filed and the charge framed for the said offence.

2. Learned Magistrate found the act of the accused/applicant duly proved and thus convicted him under Section 325 IPC and

imposed the sentence of RI for one year with fine of Rs. 100/-. Learned lower appellate Court also maintained the findings of the learned Magistrate vide judgment impugned dated 27.09.2010 passed in Criminal Appeal No. 104/2010. Hence this revision.

3. Heard counsel for the parties and perused the material on record. PW-2, PW-3 and PW-9 claimed themselves to be the eye witnesses to the incident. However, PW-9 did not support the case of the prosecution. PW-2 and PW-3 have duly supported the case of the prosecution and stated that they saw the accused/applicant assaulting the complainant with the help of a bamboo stick and causing injuries to him on various parts of his body. Complainant (PW-1) has also supported the case of the prosecution and narrated the manner in which the accused/applicant attacked him with a bamboo stick and caused injuries including fractures to him. Doctor (PW-6) has also stated that he noticed number of injuries on the body of the victim and for some of them he had advised for X-ray. He has also stated that the injuries found on the body of the victim could have been caused with the club producing before him for examination. The orthopedic surgeon (PW-4) has also supported the case of the prosecution stating that he found the fracture of the radius and ulna of the victim. According to him, the index finger of the victim was also found to be fractured. The report given by the orthopedic surgeon is Ex. P-1. The bamboo stick used in the commission of offence was also seized under Ex. P-5 by the police personnel (PW-7). In the midst of evidence discussed herein above, the offence under Section 325 IPC is clearly made out against the accused/applicant and being so both the Courts below have not

committed any illegality or infirmity in convicting the accused/applicant for the said offence. The conviction of the accused/applicant under Section 325 IPC is therefore maintained.

4. However keeping in mind the fact that the incident had taken place about 22 years back and that the accused/applicant has already suffered the jail term of for more than 3 weeks, this Court is of the considered opinion that the interest of justice would be met if he is set at large by reducing the jail sentence to the period already undergone by him. Order accordingly.

5. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan