

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 925 of 2009**

1. Bhupendra Yadav, S/o Ramkumar Yadav, aged about 20 years, Occupation – Agriculturist, R/o Village – Devdand, Tahsil – Bagicha, District – Jashpur (C.G.).
2. Satyanarayan @ Gugul Yadav, S/o Devdutt Yadav, aged about 51 years, Occupation – Agriculturist, R/o Village-Devdand, Tahsil-Bagicha, Distt.-Jashpur, C.G.

---- Appellants**Versus**

- State of Chhattisgarh, Through : District Magistrate, Jashpur, District – Jashpur, (C.G.).

---- Respondent

For Appellants	:	Smt. Indira Tripathi, Advocate
For Respondent	:	Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****27/07/2021**

1. This appeal has been preferred against the judgment dated 03/12/2009 passed in Sessions Trial No. 36/2009 by the Sessions Judge, Sessions Division, Jashpur, (C.G.), whereby the appellants have been convicted under Section 325/34 of the Indian Penal Code and sentenced to undergo R.I. for 1 year and to pay fine of Rs. 500/- each with default stipulation.
2. According to the case of prosecution, on 13/08/2008 at about 7:00

A.M., appellants in the '*kothar*' of one Manbahal Yadav (PW-1) cut the '*putus*' and '*sendhwar*' and when son of Manbahal namely Rajesh and Prem Sagar Yadav (PW-2) tried to restrain them, then appellant No.1 assaulted Prem Sagar from blunt side of axe and appellant No.2 also assaulted him with '*lathi*' due to which he sustained injuries on his body. Thereafter, matter was reported in the police station and on the basis of the said, offence under Section 307/34 of the I.P.C. was registered. Statement of the witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet has been filed against the appellants. Trial Court framed the charges against the appellants. To prove the guilt of the accused/appellants, prosecution has examined as many as 7 witnesses. Two defence witnesses have been examined. Statement of the appellants under Section 313 of the Cr.P.C has been recorded, wherein they have pleaded innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the appellants submits that she does not want to press this appeal on merits and confines her argument to the sentence part only. She further submits that the trial Court has wrongly convicted the appellants without there being any sufficient evidence available on record. She further submits that during trial, appellants have undergone imprisonment for about 38 days in the present case. They have no any previous antecedent and they are facing the *lis* since 2008, therefore, she prays that the jail sentence awarded to the appellants may be reduced to the period already

undergone by them.

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 appellants have undergone imprisonment for about 38 days in the present case, they have no any previous antecedent and they are facing the *lis* since 2008, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the appellants, the jail sentence awarded to them is reduced to the period already undergone by them.
8. Consequently, the appeal is partly allowed. The conviction of the appellants under the aforementioned Section is affirmed and they are sentenced to the period already undergone by them. However, the fine sentence is enhanced from Rs.500/- to Rs.10,000/- for each of the appellants which shall be payable within a period of one month from the date of receipt of this order. Ordered accordingly. In default of payment of fine amount, the appellants shall be liable to undergo simple imprisonment for 3 months. If any fine amount has already been paid, said amount shall be adjusted in the fine enhanced.
9. It is reported that the appellants/accused are on bail. Their bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in

Section 437-A of Cr.P.C.

10. 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