

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No.128 of 2012**

1. Jeevan Yadav, S/o Manwa Yadav, aged about 51 years,
2. Sanjay Yadav, S/o Rajendra Yadav, aged about 19 years,
3. Churawan Yadav S/o Jagdish Yadav, aged about 28 years,
R/o Village Nigarband, Police Station – Takhatpur, District -
Bilaspur, Chhattisgarh

---- Applicant**Versus**

- The State of Chhattisgarh, Through the Station House Officer, Police Station – Takhatpur, District - Bilaspur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Shreyankar Nandy, Advocate
For Respondent/State	:	Shri Ishwar Jaiswal, PL

Hon'ble Smt. Justice Vimla Singh Kapoor**Order on board****06.04.2021**

On 09.08.2006, when complainant Sudan Sahu (PW-1) was in his betel kiosk, the accused/applicants herein came there and demanded cigarette on credit. When the complainant asked them to first make the payment of previous outstanding amount, they all got enraged and started hurling abuses and also threatened him of life. Accused Jeevan is alleged to have caused a club injury on the head of Sudan Sahu (PW-1). When Lalji Sahu (PW-2) came to intervene in the matter, he was also subjected to beating by the accused persons. On the basis of report lodged by complainant

(PW-1) offences under Sections 294, 506 and 323/34 were registered against all the accused/applicants followed by charge-sheet being filed and charge framed accordingly.

2. Learned Magistrate vide judgment dated 19.10.2011 convicted the accused/applicants under Sections 323/34 and 325/34 IPC and sentenced them to undergo SI for three months with fine of Rs.1,000/- under Section 323/34 and SI for six months with fine of Rs.2,000/- under Section 325/34 IPC, plus default stipulation.

3. Learned Lower Appellate Court also affirmed the findings recorded by learned Magistrate as a whole by the judgment impugned. Hence this revision.

4. Heard counsel for the parties and perused the evidence on record.

5. If a closer scrutiny of the evidence of Sudan Sahu (PW-1) and Lalji Sahu (PW-2) is undertaken, it is manifest that on the fateful day when PW-1 asked the accused/applicants to first make the repayment of the outstanding amount before taking cigarette on credit, the accused/applicants lost their temper and started hurling filthy abuses and also threatened him of life. Accused Jeevan is also stated to have inflicted club blow on the head of the PW-1. Lalji Sahu (PW-2) also suffered injuries as a result of assault opened by the accused/applicants. Though, it has come in the evidence that the accused/applicant had taken out bamboo stick already kept in the betel kiosk, but from the evidence of victims it is crystal clear that they themselves had brought club with them for

causing hurt to PW-1. Dr. S.K. Samuel (PW-4) who medically examined the victims PW-1 and PW-2 has categorically stated that he noticed a lacerated wound on the head of PW-1 including bruises on his right forearm and for further examination he referred him to the radiologist. Likewise, he also noticed bruises above the right hip, bruises and contusions on the right arm with swelling all around on the body of Lalji Sahu (PW-2). He too was referred him to the radiologist for examination to ascertain the further injuries. Radiologist Dr. George M. Khakha (PW-6), who took x-ray of PW-1 and PW-2 has categorically stated that right radius of PW-2 was found fractured as is evident from the report Ex-P/4. He also took x-ray of head of PW-1 but did not find any fracture there upon as is evident from his report Ex-P/5. PW-7 is the Investigating Officer who has duly supported the case of the prosecution. So is the position with PW-8 who assisted in the investigation. All this apart, seizure of club was also made from accused Jeevan vide Ex-P/6. Thus, there is ample evidence on record to show that the accused/applicants had gone to the betel kiosk of the accused/applicant and when complainant asked for the repayment of the previous outstanding which they were bound to do so, they lost their mental balance and opened an assault with the club already carried by them. Medical evidence also lends support to the case of the prosecution.

6. There is no infirmity in the judgment impugned as far as it relates to the conviction part thereof and being so it is hereby maintained.

7. As regards sentence, keeping in mind the fact that the accused/applicants have already remained in jail for about a month and thereby have suffered a lot, interest of justice would be served if the sentence imposed on them be reduced to the period already undergone. Order accordingly.

8. The revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
Judge