

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 678 of 2011

1. Ratanlal, S/o. Shobhraj Bidhani, aged about 55 years,
2. Sanjay Bidhani, S/o Ratanlal Bidhani, aged about 32 years,
Both R/o. Daldalsivni Avti Vihar, Thana – Mowa, District Raipur, CG
---- **Applicants**

Versus

State of Chhattisgarh, through District Magistrate, District Raipur, CG.
---- **Respondent**

For Applicant	: Mr. Navin Shukla, Advocate.
For State/Respondent	: Mr. K.K. Singh, GA.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

08.03.2021

Some old dispute is said to have existed between the accused and the complainant on account of some landlord – tenant related issue as the accused/applicants – the father and son, were residing as tenant in the house of the complainant. On 09.07.2003 the accused/applicants namely Ratanlal started hurling abuses to the complainant, dragged him down the stairs and hit him with a conduit pipe on his hand. Little later, both the accused/applicants brought him on the road and again started thrashing him. They also threatened him of being eliminated. On the written report (Ex.P-1) given by the complainant himself, FIR (Ex.P-4) came to be registered against the accused/applicants under Sections 294, 323, 506-II and 325/34 IPC. After medical examination of the victim, the charge-sheet was filed and ultimately the conviction of the accused/applicant ensued by learned Magistrate vide judgment dated 08.08.2011.

2. Having heard counsel for the parties and gone through the evidence of the victim duly supported by one eye witness namely Sanjay

(PW-2) – the son of the victim, the act of the accused/applicants is fully proved. The victim while deposing the Court has described the entire incident in a graphic manner as to how and in what manner the accused/applicants dragged him on the road, hit him with a conduit pipe on his hands and also put him under the threat of being done away with. One Dinesh Agrawal is also said to have seen the incident but unfortunately he has not been examined by the prosecution for the reasons best known to it. The radiological examination undertaken by doctor Anand Jaiswal (PW-3) goes to show that there was fracture on the third, fourth and fifth proximal phalanges of the victim. Though this witness given an opinion that the said injuries could also have been caused by fall yet looking to the well descriptive deposition of the victim and his son that it is the accused/applicants who had opened an assault on him after dragging to the road, this possibility expressed by the doctor can safely be sidelined.

3. The evidence discussed above is sufficient to hold the accused/applicants guilty under the sections referred to above and being so both the Courts below have not gone wrong in holding them guilty for the offences levelled against them. No illegality or infirmity is noticeable in the well reasoned findings of the Courts below warranting any interference in this revision, in particular the conviction part thereof. Conviction of the accused/applicants is therefore maintained.

4. As regards sentence, keeping in the mind the fact that the incident had taken place in the year 2003 and since then they have suffered a lot in fighting the legal battle up-till now and that they have remained inside for about a week, this Court leans in favour of reduction of the sentence to the period already undergone because his entire family would be at risk if he is made to remain inside any further. Reduction of the sentence to the

period already spent by the accused/applicants in jail is ordered accordingly.

5. Revision is allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay.