

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 627 of 2010**

1. Munna S/o. Sungau Sahu, aged 38 years,
2. Lalji S/o. Sungau Sahu, aged 33 years,
3. Sungau S/o. Rama, aged about 73 years,
4. Rajaram S/o. Sungau Sahu, aged 21 years,

All R/o, Village Ruse, P.S. Pandatarai, Tahsil Pandariya, District Kabirdham CG.

---- Applicants.

Versus

State of Chhattisgarh, through the District Magistrate, Kabirdham (Kawardha) CG.

---- Respondent

For Applicant	: Shri Soumitra Kesharwani, Adv.
For State/Respondent	: Shri Sameer Sharma, Dy. GA.

Hon'ble Smt. Justice Vimla Singh Kapoor**Order On Board**

18.02.2021

The accused and the complainant happened to be the siblings. On account of the crop of accused/applicants being grazed by the animals of complainant (PW-1), some altercation erupted between them which led to hot talk, exchange of abusive words, threat of life and ultimately to assault. In the incident, Baliram (PW-1) is said to have been caused club injuries by accused Munna followed by others in quick succession. FIR lodged by Baliram (PW-1) was under Sections 294, 506-B and 323/34 IPC and the investigation resulted in certain alteration in the offences followed by their conviction under Sections 325/34 and 323 IPC and the sentence of RI for 3 months each with fine of Rs.500/- under Section 325 and till rising of the Court with fine of Rs.100/- under Section 323 IPC vide judgment dated 05.03.2009 passed by learned Magistrate in Criminal Case No.217/2007.

2. In appeal also the finding of conviction recorded by learned Magistrate received affirmation but the sentence was halved vide judgment dated 26.11.2010 passed in Criminal Appeal No.09/2009.

3. Counsel for the accused/applicants first vehemently argued their case on merits but ultimately restricted his prayer for the reduction of the sentence to the period already undergone if his guilt did not receive any favour by this Court. State counsel however as usual supported the findings recorded by both the Courts below.

4. From the evidence of Bali (PW-1), Sugriv (PW-2), Lalaram (PW-3) and Shyamu (PW-4) it is manifest that on the fateful day accused Munna picked-up a quarrel with PW-1 on account of invasion of his animals in his field and then indulged in hurling abuses, threatening of life and causing injuries on various parts of his body with club, including head. PW-2, PW-3 and PW-4 are also stated to have received injuries on various parts of body when they came to the rescue of PW-1. Injury of PW-1 as has been opined by the doctor (PW-7) was fracture of his ulna. The injuries of PW-2, PW-3 and PW-4 have been opined to be simple in nature. The injury of PW-1 if seen in the light of Section 320 IPC, being fracture it was grievous in nature. Being so, both the Courts below did not go wrong in holding the accused/applicants guilty under Sections 325/34 and 323 IPC.

5. Conviction of the accused/applicants therefore, is maintained. However, keeping in mind the fact that the incident had happened in the year 2005 and that the accused/applicants have remained inside for about a week, this Court does not think it proper to again send them to jail, therefore, the sentence imposed on the accused/applicants is reduced to the period already undergone. Order accordingly.

6. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge