

HIGH COURT OF CHHATTISGARH, BILASPURCRR No. 377 of 2013

1. Mahabir Sao, son of Rajaram, aged about 30 years,
2. Jagannath Sao, son of Karghani Sao, aged about 65 years,
3. Ramsingh Gond, son of Manrakhan Gond, aged about 25 years,
4. Ramsurat Gond, son of Gopal Gond, aged about 43 years,
5. Lahan Gond, son of Sitaram Gond, aged about 40 years,
6. Surajdev Gond, son of Mahraj Gond, aged about 35 years,

All are residents of Village Devgai, Police Station Ramanujganj, Revenue District Balrampur, District Balrampur-Ramanujganj (CG), Civil District Surguja.

--- Applicants.

Versus

State of Chhattisgarh, through the Police Station Ramanujganj, Civil & Revenue District Balrampur, District Balrampur, Ramanujganj (CG)

--- Respondent.

For Applicants : Ms. K. Radhika, Adv.

For Respondent : Mr. Sameer Sharma, Dy. GA.

Hon'ble Smt. Justice Vimla Singh KapoorOrder On Board

12.04.2021

On 16.06.2008 Ramdev (PW-7) is said to have borrowed bicycle of complainant (PW-1) to be returned 2-3 days thereafter. However, as for some reason or the other, the bicycle could not be returned within the appointed time, the complainant went to the house of Ramdev (PW-7) but unfortunately he was not available at that time. However, on the insistence of the wife of Ramdev (PW-7), the complainant waited for sometime and also partook the lunch on being offered by Devmuni (PW-3) – the sister of Devanti (PW-2). Meanwhile, the accused/applicants herein happened to reach there carrying clubs with them and on the suspicion of complainant and Devanti (PW-2) being in illicit relations, thrashed the two whereas accused Dalbir with the assistance of Mahavir tied the complainant in front of the house of Dalbir who remained confined to the peg to which he was tied for the whole night. Devanti (PW-2) and Devmuni (PW-3) are also said to have been beaten up by the accused/applicants who had come to the

house of Ramdev (PW-7) in his absence, by forming an unlawful assembly. Subsequently, on the basis of FIR lodged by Chandreshwar (PW-1) offences under Sections 147, 149, 342 and 325 were registered against the accused/applicants and after medical examination and completion of other investigation related formalities, charge-sheet was filed and the charge was framed for the said offences.

2. Learned Magistrate vide judgment dated 10.09.2010 convicted the accused/applicants namely Mahabir, Ramsingh, Ramsurat, Lahan, Surajdev, Dalbir, Rajkumar and Lallu and sentenced them to undergo RI for six months with fine of Rs.100/- each. At the same time, accused Jagarnath has also been convicted for the same offences but has been just imposed the sentence of fine amounting to Rs.500/- on each count. Learned lower appellate Court however removed the separate conviction of all the applicants under Section 149 IPC. It also acquitted accused Rajkumar Gond and Lallu Gond of all the charges levelled against them but convicted the accused/applicants herein under Section 147, 342 and 323/149 IPC by imposing the sentence of SI for six months with fine of Rs.100/-, plus default stipulation. Hence this revision.

3. Heard learned counsel for the parties and perused the evidence on record.

4. If a composite reading of the evidence of PW-1, PW-2 and PW-7 is undertaken, it is abundantly clear that on 18.06.2008 when complainant had gone to the house of Ramdev for taking back his bicycle, on the insistence of his wife Devanti (PW-2) and sister-in-law (PW-3) he waited for sometime and also partook lunch. Their evidence also makes it clear that meanwhile the accused/applicants reached there carrying clubs in their hands and taking the complainant and PW-2 to be in illicit relations, thrashed both of them and also tied the complainant in front of the house of accused Dalbir. Though the allegation of tying the complainant is

against accused Dalbir but as the conviction is with the aid of Section 149, all are equally responsible as if the act has been individually done by each of them. Not only this, the complainant was kept in wrongful confinement for whole night. Ramdev (PW-7) has also stated that when he got back, home his wife (PW-2) informed about the entire incident of being manhandled by all the accused/applicants. Doctors PW-7 and PW-8 who examined PW-1 and PW-2 respectively and gave their reports Ex.P-8 and Ex.P-9 have also noticed various injuries on their bodies though simple in nature which is indicative of the fact that they both have been roughed at the hands of the accused/applicants.

5. Thus the involvement of the accused/applicants in beating of PW-1 and PW-2 is writ large and there is no reason for this Court to discard the truthful testimony of PW-1, PW-2 and PW-7 which has been duly corroborated by the medical evidence as well. Thus, conviction of the accused/applicants is hereby maintained. However, looking to the fact that much water has flown since the time of incident and that the accused/applicants have already remained in jail for about a week this Court does not find any reason in again sending them to jail and thereby uproot the already well rooted family life of the accused/applicants. Thus the sentence imposed on them is reduced to the period they have already remained behind the bars. Order accordingly.

6. Revision is thus allowed in part.

Sd/
(Vimla Singh Kapoor)

Judge