

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 895 of 2012

1. Saalam Mohammed @ Dabbu S/o Gul Mohammed Aged About 26 Years R/o Kadambari Nagar, P.S. Mohan Nagar, Durg C.G.
2. Sheikh Ibrahim @ Dau S/o Sheikh Ramzan Aged About 21 Years R/o Patankar Colony Kundrapara, Durg C.G.

---- Appellants

Versus

- State Of Chhattisgarh Through - P.S. Chawni, Durg C.G.

---- Respondent

For Appellants	:Mr. Shashank Thakur, Advocate.
For State/Respondent	:Mr. Ghanshyam Patel, Govt. Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

23.07.2021

1. Learned Counsel appearing for the Appellants submits that Appellant No. 1 Saalam Mohammed @ Dabbu has been released from jail after completion of entire jail sentence imposed upon him by the Trial Court, therefore, he does not want to press the appeal with regard to Appellant No. 1 namely Saalam Mohammed @ Dabbu.
2. In view of the above submission, the appeal is dismissed as not pressed with regard to Appellant No. 1 namely Saalam Mohammed @ Dabbu.

3. This appeal has been preferred against the judgment dated 31.07.2012 passed in Session Trial No.216/2011 by the learned Fourth Additional Sessions Judge, Durg, Distt. Durg (C.G.) wherein, Appellant No. 2 has been convicted for the offence punishable under Section 324 of the IPC and sentenced to undergo SI for 2 years and to pay fine of Rs. 1,000/-, with default stipulation.
4. According to the case of prosecution, deceased Shrawan Kumar lodged a report in concerned Police Station to the effect that on 01.05.2011 at around 9 PM, Appellant No. 1 was quarreling with his brother Durga Prasad @ Shyamlal, Jamuna and Bantu. Deceased Shrawan Kumar along with her mother and brother Ved Prakash tried to pacify them, the accused persons misbehaved with them and hit the deceased with hand and fist due to that the deceased sustained injuries on his head and during course of treatment on 02.05.2011, Shrawan Kumar has died. On the basis of said report, offence has been registered. Later on statements of witnesses recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed by the Police. Trial Court framed the charges. To robe Appellant 2 in the crime-in-question, the prosecution has examined as many as 15 witnesses. In the statement of Appellant No. 2 recorded under Section 313 of Cr.P.C, he has pleaded his innocence and false implication in the matter, however, no defence witness

was examined by Appellant No. 2. After completion of trial, the Trial Court convicted and sentenced Appellant No. 2 as mentioned in Para 03 of this judgment. Hence, this appeal.

5. Learned Counsel appearing for Appellant No. 2 submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the main allegations are against Appellant No. 1. Appellant No. 2 has already undergone about 8 months out of 2 years of jail sentence, he has no criminal antecedent and he is facing the *lis* from 2011. Therefore, the jail sentence awarded to him may be reduced to the period already undergone by him.
6. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
7. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
8. Considering the above facts and circumstances of the case, particularly considering the fact that Appellant No. 2 has already undergone about 8 months out of 2 years of jail sentence, he has no criminal antecedent and he is facing the *lis* from 2011. I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon Appellant No. 2, the jail sentence awarded to him is reduced

to the period already undergone by him.

9. Consequently, the appeal is partly allowed with regard to Appellant No. 2. The conviction of Appellant No. 2 under Section 324 of the IPC is affirmed and against the conviction he is sentenced to the period already undergone by him. The fine sentence for the above offence is also affirmed.
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