

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 947 of 2000**

- Santu @ Satyamdas S/o Shivdas @ Ravidas aged about 20 years, R/o Karana Chouk, Tikarapara, Bilaspur, C.G.

---- Appellant**Versus**

- State of M.P (Now Chhattisgarh).

---- Respondent

For Appellant	:	Mr. Syed Ishhadil Ali, Advocate.
For Respondent/State	:	Ms. Subha Shrivastava, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****19/07/2021**

1. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 28.03.2000 passed by the learned VII Upper Sessions Judge, Bilaspur, in S.T. No. 349/1999 whereby, the learned VII Additional Sessions Judge, Bilaspur convicted the appellant and sentenced him as under :-

S. No.	Conviction	Sentence
1.	U/s 307 r/w 34 of IPC	R.I. for 5 years and fine of Rs. 1000/- in default of fine additional imprisonment for 6 moths.
2.	U/s 323 r/w 34 of IPC	R. I. for 4 months.
3.	506-II of IPC	R.I. for 1 year. All sentences to run concurrently.

2. Brief facts of the case are that Virender Kumar Athale lives in Dayalband, Bilaspur and runs a paan shop in Mannu Chowk Tikrapara. On the date of incident i.e. 05.06.1999 at about 6:30 pm., Virender Kumar Athale was sitting in his paan shop, on that time, Chandan came running to his shop and told that Pawan Sagar is being beaten up by his uncle's son (Chhote Raja), Santu and

others, on which Virender Kumar Athale reached the spot and saw that Pawan Sagar was lying near Raju's hand cart, and the accused were threatening him to kill by assaulting with sticks and hand punches. It is alleged that when he reached there, the accused persons ran away. Pawan Sagar sustained injuries on hands, feet, head and entire body.

3. So as to hold the accused/appellant guilty, the prosecution has examined as many as 10 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges levelled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 28.03.2000, learned sessions Judge, Bilaspur has convicted and sentenced the appellant for the offence under Sections 307 r/w 34, 323 r/w 34 and 506-II of IPC and sentenced him to undergo R.I. for 5 years and to pay fine of Rs. 1000/-, R.I. for 6 months and R. I. for 1 year respectively in default of fine six months of rigorous imprisonment. Hence, the present appeal.

5. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the appellant submits that he is not pressing the appeal so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 1999, and thereby more than 21 years have rolled by since then. He is aged about more than 40 years. The appellant is in jail since more than ten months, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned counsel for the State has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses Pawan Sagar (PW-1) and Chandan Kumar (PW-10)

it is proved that when they reached the place of incident the accused persons along with the present appellant were present and beating the victim. PW-1, PW-10 and Sunita Dhariwal (PW-2) have stated in their statements that Chandan Kumar was abusing and assaulting with stick by the accused persons, thereafter, he ran away from the spot. The statements of Dr. Ajay Shriram Nagraj (PW-3) and Dr. Dhanram Singroul (PW-4) as also of Virendra Kumar Athale (PW-6) and R.M. Tripathi (PW-7), establishes the involvement of the accused/applicant in the crime in question and stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by the Court below as regards conviction of the appellant under Sections 307 r/w 34, 323 r/w 34 and 506 of IPC.

9. As regards sentence, keeping in view the facts that the incident had taken place in the year 1999, appellant by now must be a middle aged person and is in jail since more than ten months, therefore, I am of the view that ends of justice would be served, if the sentence imposed on him is reduced to the period already undergone by him.

10. Accordingly, the appeal is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him. Accused/appellant is reported to be in jail. He be released forthwith if not required in any other case.

Sd/-
(Rajani Dubey)
JUDGE