

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 198 of 2021**

- Vijay Gupta, S/o Shri Chelia Gupta, aged about 40 Years, R/o - Rajeev Nagar, Chhichour Umara, Police Station and Tahsil - Pussour, District - Raigarh Chhattisgarh.

----Appellant**Versus**

1. State of Chhattisgarh, Through - S.H.O. of the Police Station - Pussour, District - Raigarh Chhattisgarh.
2. Kushram Saw, S/o Late Lekhan Saw, aged about 58 Years, R/o - Rajeev Nagar, Chhichour Umara, Police Station and Tahsil - Pussour, District – Raigarh, Chhattisgarh.

---- Respondents

For Appellant	Shri Abhishek Saraf, Advocate.
For State	Shri Vimlesh Bajpai, Government Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board****24/02/2021**

1. Heard on I.A. No.1 of 2021.
2. This is an application for condonation of delay in filing the appeal.
3. For the reasons mentioned in the application which is duly supported by an affidavit, the same is allowed and delay of 456 days in filing the present appeal is condoned.
4. Also heard on admission.
5. The appellant/victim has filed this appeal under Section 372 of Cr.P.C. seeking enhancement of the sentence awarded to the respondent No.2/accused passed by the 7th Additional Sessions

Judge, Raigarh, C.G. in CRA No.168 of 2018 vide judgment dated 28.08.2019.

6. Case of the prosecution, in brief, is that on 22.04.2015 at about 10:00 am, the appellant/victim was lying on his cot, at that time respondent No.2/accused entered his house, abused him filthily and asked for vacating the house. The accused also threatened him of life and committed *marpeet* with him. When the wife of the victim intervened, the accused also assaulted her. On report being lodged to the above effect by the victim, the offence under Sections 294, 506 Part-II, 323 and 452 of IPC were registered against the accused.
7. After trial being conducted, the Judicial Magistrate First Class, Raigarh, C.G. vide judgment dated 29.09.2018 convicted the accused under Sections 452 and 323 of IPC and sentenced him to undergo R.I. for one year, fine of Rs. 500/- and R.I. for 6 months and fine of Rs. 500/- respectively with default stipulation with the direction that both the sentences shall run concurrently.
8. The accused preferred appeal against the said judgment and the 7th Additional Sessions Judge, Raigarh, C.G. vide judgment dated 28.08.2019 passed in CRA No.168 of 2018 while maintaining the conviction of the accused under Sections 452 and 323 of IPC reduced the jail sentence to the period already undergone by him i.e. 8 days by enhancing the fine amount from Rs.500/- to Rs.2,000/- under Section 452 of IPC and from Rs.500/- to Rs.1,000/- under Section 323 of IPC with default sentence of two

months and one month S.I. respectively.

9. Learned counsel for the appellant submits that the lower appellate Court has not properly sentenced the respondent No.2/accused as the offence under Section 452 of IPC is punishable with the maximum sentence of seven years whereas the accused has been sentenced for only 8 days. He submits that looking to the manner in which the accused committed the crime, the sentence awarded to him is not commensurate with the gravity of the offence and needs to be enhanced suitably.
10. Counsel for the State has duly assisted the Court.
11. Considering the facts and circumstances of the case, the age of the respondent No.2/accused i.e. 60 years, the fact that the accused has no any criminal antecedents, the nature of injury caused to the victim and the fact that adequate compensation has been awarded to the victim, this Court finds no reason to enhance the sentence awarded to the respondent No.2/accused by the Court below.
12. Accordingly, the present appeal being without any substance is liable to be dismissed at the admission stage itself and is dismissed as such.

Sd/-
Gautam Chourdiya
Judge