

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 238 of 2009**

1. Makhan Lal Sahu, S/o Khamhan Sahu, aged about 59 years, Occupation.- Agriculture;
2. Dular Sahu, S/o Makhan Sahu, aged about 33 years, Occupation – Agriculture;
3. Shobha Ram Sahu, S/o Makhan Sahu, aged about 31 years, Occupation – Agriculture;

All R/o Village Mohbhatta, P.S. Saja, Distt.- Durg, (C.G.).

---- Appellants

Versus

- State of Chhattisgarh Through P.S. Saja, Distt.-Durg, (C.G.)

---- Respondent

For Appellants	:	Mr. Sudhir Verma, Advocate.
For State/Respondent	:	Mr. Ravi Maheshwari, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****21/09/2021**

1. This appeal has been preferred against the judgment dated 28/02/2009 passed in Sessions Trial No. 32/2007 by the Additional Sessions Judge, F.T.C. Bemetara, District – Durg, (C.G.), whereby the appellants have been convicted under Section 323 of the Indian Penal Code and sentenced to undergo R.I. for four months and to pay fine of Rs. 500/-each with default stipulation.
2. According to case of the prosecution, on 02/07/2007, in Village Parpoda, the appellants came together forming unlawful assembly with the common object to assault the complainant Ankalaha, Ram Prasad

and others and in furtherance of that common object, they assaulted with the dangerous weapon like club, Rupli (agriculture equipment) due to which they sustained injuries on their body. Matter was reported by the complainant Ankalaha. Statement of injured as well as other witnesses were recorded. After completion of investigation, a charge-sheet was filed against appellants under Sections 147, 148, 307/149 of the I.P.C. As many as 19 prosecution witnesses have been examined. No defence witness has been examined. Statement of the appellants under Section 313 of the Cr.P.C has been recorded, wherein they have pleaded innocence and false implication in the matter.

3. After trial, the trial Court acquitted the appellants from the charges framed under Sections 147, 148, 307/149 of the I.P.C and convicted and sentenced the appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the appellants 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 appellants have undergone about 2 months out of total jail sentence of 4 months, they have no criminal antecedent and they are facing the *lis* since 2007, therefore, he prays that the jail sentence awarded to the appellants may be reduced to the period already undergone by them.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the

trial Court is just and proper and requires no interference.

6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of four months, the appellants have undergone about 2 months, they are facing the *lis* since 2007 and there is no criminal antecedent against them, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the appellants, the jail sentenced awarded to them is reduced to the period already undergone by them.
8. Consequently, the appeal is partly allowed. The conviction of the appellants under the aforementioned Section is affirmed and they are sentenced to the period already undergone by them. The fine sentence is affirmed.
9. 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