

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 748 of 2002

1. Gaitry Bai, W/o Gyani Mahar, aged about at present 59 years. R/o Magarpara, Bilaspur, P.S. Civil Line Bilaspur, District Bilaspur (C.G.)
2. Devaki Bai alias Devkar, W/o Kuldeep Mahar, aged about at present 25 years. R/o Magarpara, Bilaspur, P.S. Civil Line Bilaspur, District Bilaspur (C.G.)

---- Appellants

Versus

State of Chhattisgarh Through Police Station Civil Line Bilaspur,
District Bilaspur, Chhattisgarh.

---- Respondent

For Appellants	:Mr. Ramkumar Tiwari, Advocate.
For State/Respondent	:Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

22.02.2021

1. This appeal has been preferred against the judgment dated 08.07.2002 passed in Sessions Trial No.30/2001 by the learned Additional Sessions Judge (Prevention of Atrocities) Act, Bilaspur (C.G.) wherein, the Appellants have been convicted for the offence punishable under Section 186 of the IPC and sentenced to undergo SI for 02 months, under Section 333/34 of the IPC and sentenced to undergo SI for 03 years and to pay fine of Rs. 200/- & under Section 294 of the IPC and to pay fine of Rs. 100/- respectively, with default stipulations. All the sentence to run concurrently.
2. According to the case of prosecution, on 08.07.1998, Police

Constable Ganeshram Sahu (PW-1) was posted at P.S. Civil Lines, Bilaspur (C.G.). On 08.07.1998, at about 12:30 PM, Ganeshram Sahu (PW-1) went to the house of co-accused Lalu Mahar for service of non-bailable warrant which was issued by Chief Judicial Magistrate, Bilaspur (C.G.) against co-accused Lalu Mahar. When he reached and meet to co-accused Lalu Mahar in front of his house and told him about his arrest warrant, allegedly, at that time the Appellants came their, they caught hold hands of Ganeshram Sahu (PW-1) and co-accused Lalu Mahar assaulted him with the help of club due to that Ganeshram Sahu (PW-1) sustained injuries on his head. All of them have also abused Ganeshram Sahu (PW-1). At that time constable Ramsharan Chandrakar (PW-5) came on the spot and intercepted in the fight. Allegedly, he was also assaulted by the accused persons due to that he also sustained injury. Thereafter, the matter was reported by Ganeshram Sahu (PW-1) vide (Ex. P-6). Both Ganeshram Sahu (PW-1) & Ramsharan Chandrakar (PW-5) were medically examined by Dr. G.Prabhakar Naidu (PW-2). As advised by Dr. G.Prabhakar Naidu (PW-2) x-ray examination was also conducted by Dr. AK Chatterjee (PW-3). A fracture was found on fifth metacarpal bone of left hand of Ganeshram Sahu (PW-1). Thereafter, Statement of the complainant and other witnesses were recorded. After completion of investigation, charge-sheet was filed by the Police. Trial Court framed the charges against the Appellants. To robe the

Appellants in the crime-in-question, the prosecution has examined as many as 10 witnesses. In the statement of the Appellants recorded under Section 313 of Cr.P.C, they have pleaded their innocence and false implication in the matter, however, no defence witness was examined by the Appellants. After completion of trial, Trial Court convicted and sentenced the Appellants as mentioned in Para 01 of this judgment. Hence, this appeal.

3. 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 both the Appellants are lady and the main allegations are against co-accused Lalu Mahar who assaulted Ganeshram Sahu (PW-1). It is argued by the Counsel that not a single injury was caused by the Appellants to Ganeshram Sahu (PW-1) and Ramsharan Chandrakar (PW-5). The Counsel further submits that both the Appellants were already undergone about 8 days in jail. They have no criminal antecedents and they are facing the *lis* since 2002, i.e. for about 19 years. Therefore, the jail sentence awarded to the Appellants may be reduced to the period already undergone by them.
4. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.

5. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances of the case, particularly considering that the Appellants are facing the *lis* since 2002, there is no criminal antecedents against them and the main allegations are against co-accused Lalu Mahar. I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellants, the jail sentence awarded to them is reduced to the period already undergone by them.
7. Consequently, the appeal is partly allowed. The conviction of the Appellants under Sections 186, 333/34 and 294 of the IPC is affirmed and against the conviction they are sentenced to the period already undergone by them. The fine sentence for the offence punishable under Section 333/34 of the IPC is increased from Rs. 200 to 5,000/- which shall be payable within three weeks from the date of receipt of this order. In default of payment of the fine amount, the Appellants shall be liable to undergo simple imprisonment for two months. The fine sentence awarded for the offence punishable under Section 294 of the IPC is affirmed.
8. It is reported that the Appellants are on bail. Their bail bonds are not discharged at this stage and the same shall remain operative for a further period of six months in light of Section

437-A of the Cr.P.C.

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