

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 557 of 2008

1. Lalman S/o. Baldi Soni, aged about 54 years (died)
 2. Rambharos S/o. Lalman Soni, aged about 26 years,
 3. Lallu @ Panchalal, S/o. Lalman Soni, aged about 18 years (died)
 4. Kashiprasad @ Nandau, S/o. Lalman Soni,
- Appellant No. 1, 3 and 4 are R/o. Ranijhab and Appellant No. 2 is R/o. Chakarbahta, P.S. Gaurela, District Bilaspur (CG)

---- **Applicants**

Versus

State of Chhattisgarh, Through Railway Police, Annuppur, District Bilaspur (now District Anuppur (M.P.)

---- **Respondent**

For Applicants : Mr. Dashrath Prajapati, Advocate
For Respondent : Mr. Adil Minj, Govt Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 27.01.2021

Case of the prosecution, in brief, is that on 14.02.1989 complainant namely Chunni Lal (PW-1) along with his sister were returning to Harri from Bilaspur in a passenger train. When the train reached at Bhanwartank station, then the applicant along with other co-accused entered in it and quarrel with him and assaulted him with hands and fists. As a result of which, the complainant sustained injuries in his hands and leg and after that when the complainant became unconscious then the applicants thinking him to be dead and left him on the spot and fled from there. The incident was informed to GRP Pendra by his sister namely Geeta Soni. Subsequently, FIR (Ex.P-1) lodged in

GRP Annuppur under Section 307, 147 and 148 IPC. After completion of investigation, charge sheet was filed against the applicants in the same sections.

2. By the judgment dated 1.10.1999 learned trial Court convicted the accused/applicants under Section 326/34 and 147 IPC and imposed the sentence of RI for 3 years and to pay fine of Rs. 1000/- each under Section 326/34 IPC and RI for six months under Section 147 IPC. However, learned lower appellate Court has modified the conviction part of the judgment and convicted them under Section 325/34 IPC and sentenced to RI for 3 years and to pay fine of Rs. 1000/- under Section 325/34 IPC plus default stipulation. Hence this revision.

3. Counsel for the accused/applicant apart from vehemently arguing his case makes an alternative prayer that if his submissions do not yield any positive result on conviction part of the judgment impugned, keeping in mind the fact that the accused/applicants have already faced a lot for their misdeeds and remained inside for about four months, the sentence imposed on them may be reduced to the period already undergone.

4. State counsel however supports the judgment impugned and submits that the concurrent findings of fact recorded by both the Courts below being well grounded and well founded do not call for any disturbance in this revision.

5. I have heard learned counsel appearing for the parties and perused the record.

6. Chunni Lal (PW-1) is the complainant. He has stated that on the date of incident he was along with his sister namely Geeta Soni and they were returning to Harri from Bilaspur. When the train reached near Bhanwartank station, then the applicants entered in it and started quarrelling with him and caused injuries by hands and fists and as a result of which he sustained fracture injuries in hands and legs. In cross-examination, he remained firm. Geeta Soni (PW-2) is the sister of the complainant, who was with him at the time of incident, has stated that his brother was sleeping on the upper berth then the applicants came there and assaulted on the hands and leg of his brother. She has fully supported the case of the prosecution. All this apart, PW-3, PW-4, PW-5, PW-6, and PW-11 who were with witnesses and present there at the time of incident and have stated in their statement that they have seen the incident and all of them have categorically supported the case of the prosecution. Doctor (not examined) had taken MLC of the victim at Annuppur and referred him to District Hospital Shahdol for X-ray. Dr. P.C. Jain (PW-13) radiologist who took x-ray of the complainant and submits his report under Ex.P-4 and noticed fracture on radius ulna and on femur and tibia joint. The views recorded by the two courts below are fully well founded warranting no scope therewith for dislodgement thereof particularly with the conviction part of the judgment impugned. Accordingly, the involvement of the accused/applicants in the case in hand is clearly established. It is approved hereby as such.

7. However, looking to the fact that the incident had taken place in the year 1989 and thereby more than 32 years have passed by, and further that the accused/applicants have already remained inside about four months, this Court thinks it proper to reduce the sentence imposed on them to the period already undergone, so that their already settled family life is not landed to crises. Order accordingly.

8. Revision allowed in part.

Sd/-

(Vimla Singh Kapoor)

JUDGE