

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 209 of 2009

Shanta Tiwari, S/o Late Shri Parshuram Tiwari, aged about 48 years, R/o Village Ragda, P.S. Surajpur, District Surguja (C.G.)

---- Appellants

Versus

State of Chhattisgarh Through Station House Officer Incharge, Police Station Aa.ja.ka. Surajpur, District Surguja, Chhattisgarh.

---- Respondent

For Appellant	:Mr. C. Jayant K. Rao, Advocate.
For State/Respondent	:Mr. Rakesh Sahu, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

09.03.2021

1. This appeal has been preferred against the judgment dated 04.03.2009 passed in Special Session Case No.27/2008 by the learned Special Judge Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act 1989, Surguja, Ambikapur (C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 325 of the IPC and sentenced to undergo RI for 02 years and to pay fine of Rs. 500/-, with default stipulation.
2. According to the case of prosecution, on 07.11.2007, at about 6:30 PM when Manoharlal and Bajilal (members of Schedule Castes and Schedule Tribes) went towards their field and at the time of returning at Gaderipara, the Appellant dashed his bicycle with the bicycle of Manoharlal and Bajilal, thereafter,

he abused them by the name of their castes and also assaulted Bajilal on his head with the help of club. Thereafter, the matter was reported by the complainant. On the basis of said report, offence has been registered against the Appellant. Thereafter, Statement of the complainant and other witnesses were recorded. After completion of investigation, charge-sheet was filed by the Police under Sections 307, 294 & 506 Part-II of the IPC and Section 3 (1)(10) of the SC & ST (Prevention of Atrocities) Act. To robe the Appellant in the crime-in-question, the prosecution has examined as many as 10 witnesses. In the statement of the Appellant recorded under Section 313 of Cr.P.C, he has pleaded his innocence and false implication in the matter, however, no defence witness was examined by the Appellant. After completion of trial, the Trial Court has acquitted the Appellant from all the charges, however, convicted and sentenced the Appellant as mentioned in Para 1 of this Judgment. Hence, this appeal.

3. Learned Counsel appearing for the Appellant 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 Appellant already undergone about 5 months in jail. He has no criminal antecedents and he is facing the */is* since 2009, i.e. for about 12 years. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.

4. On the contrary, learned State Counsel opposes 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 2009 and there is no criminal antecedents against him. I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentence awarded to him is reduced to the period already undergone by him.
7. Consequently, the appeal is partly allowed. The conviction of the Appellant under Section 325 of the IPC is affirmed and the fine sentence is increased from Rs. 500 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 Appellant shall be liable to undergo simple imprisonment for three months.
8. 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