

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 369 of 2012**

1. Gadhu, S/o Kanhaiya, aged about 50 years, Caste- Satnami
2. Sadaram, S/o Sewak Ram, aged about 45 years, Caste- Satnami

Both are R/o Devarghata, Police Chowki- Hasaud, P.S.- Jaijaipur, District- Janjgir-Champa (C.G.).

---- Applicants

Versus

- State of Chhattisgarh, Through Police Station Jaijaipur, District- Janjgir-Champa (C.G.).

---- Respondent

For Applicants : Mr. Aditya Agrawal, Advocate

For Respondent/State : Mr. Ishwar Jaiswal, P.L.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

21.09.2021

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 02.06.2012 passed by learned Second Additional Sessions Judge, Sakti, District- Janjgir-Champa (C.G.) in Criminal Appeal No. 31/2011 whereby, the learned appellate court has partly confirmed the conviction and sentence of the accused/applicants as awarded by Judicial Magistrate First Class, Jaijaipur, District- Janjgir-Champa (C.G.) vide its judgment dated 24.01.2011 in Criminal Case No. 1675/2007 for the offence under Section 323 of IPC and sentenced each of them to undergo R.I. for four months and to pay Rs. 700/- with default stipulations.

2. Brief facts of the case are that on 20.07.2007 at about 4:00 PM, the complainant- Nehar Bai along with her husband Jogi Ram was in the market. Deputy Sarpanch Atmaram, Gopal and other co-accused

persons were also there, Jogiram asked Atmaram to decide the dispute of his land. Thereafter, the accused and Gopal abused him for deciding the land dispute and also threatened them. Thereafter, accused assaulted the complainant and her husband with rod and stick, due to which, they sustained injuries. On this report, offence was registered against the applicants. After completion of investigation, charge-sheet was filed and charges were framed under Section 323/34 of IPC against the present applicants by the trial Court.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 5 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide judgment of conviction and order of sentence dated 24.01.2011, learned Judicial Magistrate has convicted and sentenced the applicants for the offence punishable under Section 323 of IPC and sentenced each of them to undergo R.I. for one year, with default stipulation. This order was appealed by the applicants and in the appeal, learned appellate court affirmed the conviction under Section 323 of IPC and reduced the sentence from 1 year to 4 months. Hence, the present revision.

5. Heard learned counsel for the parties and perused the material available on record including the impugned judgment.

6. Counsel for the applicants submits that he is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2007, and thereby more than 14 years have rolled by since then. The applicants have already remained in jail for about one month, and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them.

7. Learned counsel for the State has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses Dr. S. Kachhap (PW-1), Nehar Bai (PW-2), Jogiram (PW-3), Atmaram (PW-4), K.L. Patel (PW-5) establishes the involvement of the accused/applicants in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by appellate Court below as regards conviction of the applicants under Sections 323/34 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2007, and further that the applicants had already remained in jail for about one month, therefore, their sentence is liable to be reduced to the period already undergone by them.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicants, they are sentenced to the period already undergone by them. The applicants are reported to be on bail. Their bail bonds shall stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**

R/-