

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 237 2011**

1. Raj Kumar @ Bhondu, S/o. Premdas Satnami, aged about 40 years,

2. Suresh, S/o. Premdas Satnami, aged about 32 years,

Both the applicants are resident of Village Chhindoli, Out Post Patewa, District Mahasamund, CG.

---- Applicant

Versus

The State of Chhattisgarh, through the Police Station Tumgaon, District Mahasamund, CG.

---- Respondent

For Applicant/s : Mr. Vikram Dixit, Adv.(Legal Aid)

For State/Respondent : Mr. Ishwar Jaiswal, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board**01.04.2021**

Incident is said to have taken place on 05.10.2002 at about 7 PM . Since the bucket and the rope of complainant Mohardas had gone missing from the well, he was going home making utterances as to who had taken away the same. On hearing this, accused/applicant - Rajkumar came there by scaling the enclosure of the complainant (PW-1) and asked him as to whom he was abusing for theft and blaming. Saying so, accused Rajkumar dealt a club blow on his arm and back and thus caused injuries to him. Thereafter, on being exhorted by accused/Rajkumar, other accused Suresh also came there and asked the complainant to come out of the house to be done away with. When the complainant asked accused Suresh not to abuse, he also dealt a club blow on his head as a result of which the injury started bleeding. Subsequently, when one Ledga @ Gendlal (not examined) came to the rescue of the complainant, the accused/applicants ran away. On the basis of information given by complainant PW-1, FIR (Ex.P-1) was registered against the accused/applicants under Sections 294, 323 and 506/34 IPC. After completion of investigation including the medical examination of the

complainant, charge-sheet was filed by adding two more Sections i.e. 325 and 452 IPC followed by framing of charge.

2. Learned Magistrate vide judgment dated 17.08.2006 convicted accused Rajkumar under Section 325 and sentenced him to undergo RI for one year and pay fine of Rs. 200/-, plus default stipulation. At the same time, learned Magistrate also convicted accused Suresh under Section 323 IPC and sentenced him to undergo RI for three months and pay fine of Rs. 100/-, plus default stipulation. Learned lower appellate Court also maintained the findings of learned Magistrate vide judgment impugned dated 28.03.2011. Hence this revision.

3. Heard counsel for the parties and perused the evidence available on record.

4. The categorical statement made by complainant/victim goes to show that on the date of incident when his bucket and rope were found missing from the well, he was just making the utterances to himself as to who had taken the same away. On hearing this, accused Rajkumar came there scaling over the wall of the complainant and asked as to whom he was abusing, and saying so he dealt a club blow on his forearm and the back. Meanwhile on hearing this, accused Suresh came there and asked the complainant to come out of the house to see his end. When the complainant asked accused Suresh not to hurl abuses, he dealt a club blow on his head which started bleeding. His testimony also gets corroboration from Sukhchand (PW-2) and Ganeshram (PW-4). From the evidence of PW-2 and PW-4 it is manifest that the complainant had disclosed to them that it is the accused/applicants who had caused injuries to him with the help of club. Not only this, Sukhchand also had made a disclosure that at about 12 in the night the complainant was found lying in the lane having injuries on his body and upon inquiry being made, complainant disclosed that it is the accused/applicants who are responsible for same. Dr. L.R. Chandrakar (PW-3) who medically

examined the complainant (PW-1) and gave his report Ex.P-3 has categorically stated that he noticed as many as five injuries on the body of the complainant such as contusion and incised wounds vide Ex.P-3. On Lathi being produced before the doctor (PW-3) for examination he has opined that the injuries on the body of the victim could have been caused with the same. Vide X-ray report (Ex.P-4) it is clear that 4th to 10th ribs of the chest of the victim were found to be fractured. The injuries present on the body of the victim are opined to be grievous in nature. Sukhchand (PW-2) and Ganeshram (PW-4) are also the witnesses to seizure of the club and they have supported the same. Thus, the overall evidence of the witnesses is sufficient to hold the accused/applicants guilty for causing injuries to the complainant (PW-1). Being this, the conviction of the accused/applicant No. 1 u/s 325 IPC and that of accused/applicant No. 2 u/s 323 IPC is hereby maintained.

5. However, keeping in mind the fact that the incident had happened in the year 2002 and that the accused/applicants have remained inside for about twenty days, this Court does not think it proper to again send them to jail, and therefore, the sentence imposed on the accused/applicants are reduced to the period already undergone. Order accordingly.

6. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge