

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1135 of 2013**

1. Chain Kumar Aghariya, S/o Dokri Aghariya Aged About 47 Years, (wrongly mentioned as 745 years in the impugned judgment) R/o Village Taraideepa, P.S. Punjipathra, Distt. Raigarh, Chhattisgarh.
2. Padmani @ Nawadhin Aghariya, W/o Chain Kumar, Aged About 45 Years, R/o Village Taraideepa, P.S. Punjipathra, Distt. Raigarh, Chhattisgarh.

---- Appellants**Versus**

- State of Chhattisgarh Through P.S. Punjipathra, Distt. Raigarh, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Rajendra Tripathi, Advocate on behalf of Shri Ashish Gupta, Advocate.
For Respondent	:	Mr. Vinod Kumar Tekam, P.L.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****01/12/2021**

1. This is an admitted appeal. With the consent of both the parties, the matter is heard finally.
2. Vide PUD dated 01.11.2021 received from the First Additional Sessions Judge, Raigarh, (C.G.), it has been informed that appellant No.1/Chain Kumar has died on 08.03.2021. In this regard, a death certificate is also annexed.
3. Since, appellant No.1/Chain Kumar Aghariya has already died, the case is abated against him.

4. This appeal has been preferred against the judgment dated 07/11/2013 passed in Sessions Trial No. 141/2012 by the First Additional Sessions Judge, Raigarh, (C.G.), whereby the appellants have been convicted under Section 324/34 of the Indian Penal Code and sentenced to undergo R.I. for 2 years and to pay fine of Rs. 2,000/- with default stipulation.
5. Facts of the case are that on 16/05/2012 at about 8-9:00 PM, the complainant Kartik Ram Rathiya (PW-2) was standing near his house and demanding his '*Basula*' from the appellant. Allegedly, appellants abusing and threatened the complainant and assaulted him with the help of club and axe, due to which he sustained injuries on his head and other parts of the body. Thereafter matter was reported. Statement of Injured as well as other witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet was filed under Sections 294, 307/34, 506 of the I.P.C. Trial Court framed the charges. As many as 8 prosecution witnesses have been examined. No defence witness has been examined. Statement of the appellants under Section 313 of the Cr.P.C has been recorded, wherein they have pleaded innocence and false implication in the matter.
6. After trial, the trial Court has convicted and sentenced the Appellants as mentioned in paragraph four of this judgment. Hence, this appeal.
7. Learned Counsel appearing for appellant No.2/ Padmani @ Nawadhin Aghariya 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 appellant No.2 is an old lady aged about 55-60 years, she has undergone about 17 months out of total jail sentence of 2 years, she has no criminal antecedents and she is facing the *lis* since 2012, therefore, it is prayed that the jail sentence awarded to appellant No.2 may be reduced to the period already undergone by her.

8. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
9. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
10. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 2 years, the appellant No.2/Padmani @ Nawadhin Aghariya has undergone about 17 months, she is facing the *lis* since 2012 and there is no criminal antecedent against her, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the appellant No.2, the jail sentence awarded to her is reduced to the period already undergone by her.
11. Consequently, the appeal is partly allowed. The conviction of the appellant No.2 under the aforementioned section is affirmed and she is sentenced to the period already undergone by her. The fine sentence is affirmed.

12. 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

Prakash