

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 387 of 2013**

1. Jwala Prasad Suryawanshi, S/o Ramchandra Suryawanshi, aged about 60 years,
2. Ashok Kumar Suryawanshi, S/o Jwala Prasad Suryawanshi, Aged about 21 years,
3. Ajay Suryawanshi, S/o Makhan Suryawanshi, Aged about 21 years,
4. Anup Suryawanshi, S/o Makhan Suryawanshi, Aged about 20 years,

All are R/o Village – Muru, P.S. Hirri, Civil & Revenue, District – Bilaspur, Chhattisgarh

---- Applicants**Versus**

- State of Chhattisgarh, Through the Station House Officer, Police Station Hirri, Civil & Revenue District – Bilaspur, Chhattisgarh

---- Respondent

For Appellants	:	Shri Manoj Mishra, Advocate
For Respondent	:	Shri Sameer Sharma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor**Order on board****12.04.2021**

It is said that prior to the incident, there was a land related dispute between the parties. On 27.01.2013, at about 1.30 p.m. the accused/applicants assembled in front of the house of the complainant/Ramesh Baghel (PW-1) and unnecessarily started using obscene words against him. The accused/applicants are also

stated to have assaulted Ramesh Baghel (PW-1) and Chanderbai (PW-3). Stating specifically as per the record, the accused - Jwala caused injury to PW-1 on head with iron rod, accused – Ashok with stone on his forehead and accused Ajay and Anup caused injuries to him with hands and fists. When Chanderbai (PW-3) came to the spot and try to intervene in the matter, the accused/applicants inflicted injuries to her also. On the basis of FIR (Ex-P/1), offences under Sections 294, 323, 506-II read with section 34 IPC were registered. After completion of investigation the *challan* was also laid under the same sections followed by framing of charge accordingly.

2. Learned Magistrate vide judgment dated 04.04.2013 acquitted the accused/applicants of the charges under Sections 294 and 506-II IPC but held each of them guilty under Sections 323/34 and 325/34 IPC. The sentenced imposed by learned Magistrate to each of the accused/applicants was RI for six months with fine of Rs.1,000/- under Section 323/34 IPC and RI for one year with fine of Rs.2,000/- under Section 325/34 IPC. Learned Lower Appellate Court vide judgment impugned dated 20.05.2013 upheld the conviction part of the judgment of the trial Court but modifying the sentence reduced it to fine of Rs.1,000/- only under Section 323 and RI for three months and fine of Rs.2,000/- under Section 325 IPC, plus default clauses. Hence this revision.

3. Three eye witnesses are said to be there to the incident namely Durgesh (PW-2), Jawahar Baghel (PW-4) and Janak Yadav

(PW-7). Janak Yadav (PW-7) however declared hostile and not supported the case of the prosecution. However, the evidence of complainant/injured Ramesh Baghel (PW-1) and another victim Chanderbai (PW-3) gets corroboration from the testimony of Durgesh (PW-2) and Jawahar Baghel (PW-4). A joint reading of the evidence of the victims herein goes to show that in furtherance of some land related dispute, the accused/applicants assaulted PW-1 and PW-3 with iron rod, stone and hands and fists. The specific role attributed to the accused/applicants is that accused Jwala inflicted rod injury on the head of PW-1, accused Ashok on the forehead with stone and accused Ajay and Anup with hands and fists. Evidence of PW-1 and PW-3 also goes to show that when Chanderbai (PW-3) came to the spot and tried to intervene in the matter, she too was thrashed by all the accused/applicants. Evidence of Dr. Avinash Thawait (PW-10) also goes to show that there was contusion on the forehead of Ramesh, lacerated wound over the left eye and swelling on the left eyebrows. The evidence of the same doctor also goes to show that there was lacerated wound over the left parietal region and other lacerated wound over the occipital region coupled with contusion. However, Dr. Avinash Thawait (PW-10) referred both the injured persons for radiological examination. Perusal of the evidence of Dr. Archana Singh (PW-11), the radiologist goes to show that on CT Scan being done on victim Ramesh Baghel, the frontal bone of the head was found fractured. However, the radiological examination of Chanderbai (PW-3) did not disclose any fracture on any part of her body. More

importantly, there is seizure of iron rod from accused Jwala and that of stone from accused Ashok. On a query put to the doctor whether the injuries suffered by PW-1 and PW-3 could be caused by iron rod and stone produced before him for examination, stating affirmatively, he has clearly stated that the injuries of PW-1 and PW-3 can definitely have been caused with the same. Thus, the involvement of the accused/applicants in crime in question, where they voluntarily caused hurt to PW-3 and grievous hurt to PW-1, is clearly established and there is no scope for this Court to interfere with the same, in particular the conviction part. The conviction of the accused/applicants under Sections 323/34 and 325/34 IPC is hereby maintained.

4. However, looking to the fact that the incident had taken place about 8 years back and by now the accused/applicants have been living a quiet settled life and also keeping in mind the fact that they have remained inside for about one month and a week, this Court deems it necessary and in the interest of justice to reduce the sentence to the period already spent by them behind the bars. Order accordingly.

9. The revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
Judge