HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Revision Petition No. 265/2005

Phool Chand S/o Ratna Jat, R/o Mal Ki Chogawadi, Police Station Chanderiya, District Chittorgarh

----Petitioner

Versus

State of Rajasthan.

----Respondent

For Petitioner(s)	:	Mr. Rahul Bathi
For Respondent(s)	:	Mr. Deepak Choudhary, AAG assisted by Mr. Kuldeep Singh Kumpawat, AAAG

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

05/02/2025

Instant revision petition under Section 397/401 Cr.P.C. has been filed by the petitioner challenging the judgment dated 15.03.2005 passed by learned Addl. Sessions Judge No.1, Chittorgarh, (hereinafter referred to as 'the appellate court') in Criminal Appeal No.68/2004 by which the appellate court dismissed the appeal of the petitioner and upheld the judgment dated 08.10.2004 passed by the learned Judicial Magistrate Chittorgarh, (hereinafter referred to as 'the trial court') in Regular Criminal Case No.229/2003 & Old No.152/1999, whereby, the learned trial court convicted the present petitioner for offence under Section 326 IPC and sentenced him for a period of three years S.I. and a fine of Rs.3,000/- and in default of payment of fine, he shall further undergone three months' S.I.

Brief facts of the case are that on 16.06.1999 complainant Shambhu Lal gave a report at Police Station Chanderiya to the effect that at about 3.40 P.M. when he came to Chanderiya for the work then petitioner Phool Chand Jat bite him on his nose and took his bicycle. On this report, the police registered the case against accused-petitioner for offence under Sections 341 & 324 IPC and started investigation.

On completion of investigation, the police filed challan against the accused-petitioner for offence under Sections 326 & 341 IPC. Thereafter, the charges of the case were framed against the accused-petitioner for offence under Section 326 IPC, who denied the charges and claimed trial.

During the course of trial, the prosecution examined six witnesses and also exhibited certain documents. Thereafter, statement of the accused-person was recorded under section 313 Cr.P.C.

Upon conclusion of the trial, the learned trial court vide impugned judgment dated 08.10.2004 convicted and sentenced the accused-petitioner for offences as mentioned earlier.

Aggrieved by his conviction and sentence, the petitioner preferred an appeal before the learned appellate court, which came to be dismissed vide judgment dated 15.03.2005. Hence, this revision petition.

At the threshold, counsel for the petitioner does not challenge the finding of conviction but it is submitted that the occurrence relates back to year 1999 and the petitioner has so far suffered a sentence of about three months, out of total sentence

of three years' S.I. In such circumstances, it is prayed that the substantive sentence awarded to the accused-petitioner for the offence under Sections 326 IPC may be reduced to the period already undergone by him.

On the other hand, the learned Addl. Advocate General vehemently opposed the submissions made by the learned counsel for the accused-petitioner. The learned Addl. Advocate General submitted that there is neither any occasion to interfere with the sentence awarded to the accused petitioner nor any compassion or sympathy is called for in the said case.

I have perused the evidence of the prosecution as well as defence and the judgment passed by the courts below regarding conviction of the accused-petitioner.

It is not disputed that the occurrence has taken place in the year 1999 and the accused-petitioner has so far undergone a period of three months' incarceration, out of total sentence of three years' S.I., and so also suffered the mental agony and trauma of protracted trial. Thus, looking to the over-all circumstances and the fact that the accused-petitioner has remained behind the bars for considerable time, it will be just and proper if the sentence awarded by the trial court for offence under Section 326 IPC and affirmed by the appellate court is reduced to the period already undergone by him.

Accordingly, the criminal revision petition is partly allowed. While maintaining the petitioner's conviction and sentence for offence under Section 326 IPC the sentence awarded to him for aforesaid offences is hereby reduced to the period already

undergone. The fine amount, as imposed by the learned trial court, is already deposited by the petitioner. The petitioner is on bail. He need not surrender. His bail bonds stand discharged.

The record of the courts below be sent back forthwith.

(MANOJ KUMAR GARG),J

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