

**HIGH COURT OF MADHYA PRADESH JABALPUR****Criminal Revision No.1141/2006****Dayashankar****Vs.****State of Madhya Pradesh**

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**Present : Hon'ble Shri Justice N.K. Gupta.**

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**Name of counsel for the parties:***Shri P.S. Tomar, Advocate for the applicant.**Shri Prakash Gupta, Panel Lawyer for the respondent/State.*

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**O R D E R***(Passed on 29<sup>th</sup> day of June, 2011)*

The applicant has preferred this revision against the judgment dated 5.7.2006 passed by 12<sup>th</sup> Additional Sessions Judge (Fast Track Court), Jabalpur in Criminal Appeal No.34/2006 by which the sentence for three years R.I. was reduced to six months with fine of ₹500/-. That appeal was filed against the judgment dated 29.12.2005 passed by J.M.F.C. (Smt. Shashi Singh), Jabalpur in Criminal Case No.97/2003 by which the applicant was convicted for the offence punishable under Section 326 of IPC and sentenced for three years R.I. with fine of ₹500/-. In default of payment of fine, he was to undergo for 15 days S.I.

**2.** Prosecution story in short is that on 2.7.1994 at about 3:00 P.M. the applicant and other co-accused persons

were cutting the trees of *Babool*. When the victim Ramadhar (PW-2) obstructed them to cut the trees then the deceased Rajju had thrown the victim Ramadhar on the earth and the applicant assaulted on left hand of the victim by an axe causing him a grievous injury. After investigation, police filed a challan before the competent Court.

3. The applicant abjured his guilt. He did not take any specific plea, but he has stated before the trial Court that he has been falsely implicated in the matter.

4. After considering the evidence adduced, learned trial Court convicted the applicant for the offence punishable under Section 326 of IPC and sentenced him as stated above. In appeal, conviction was maintained but the sentence was reduced as stated above.

5. I have heard the learned counsel for both the parties.

6. Learned counsel for the applicant submits that the applicant was a young youth of 23 years of age at the time of incident. He has faced the trial, appeal and this revision for more than 17 years. It is alleged against the applicant that he gave only one blow to the victim. He remained in the custody for 26 days and, therefore, under these circumstances he may not be sent to jail again. However, fine amount may be enhanced.

7. Learned Panel Lawyer opposes the contention advanced by learned counsel for the applicant. He submits that the appellate Court has passed an appropriate sentence.

8. It is true that the applicant was a young youth of 23 years of age at the time of incident and he gave only one blow to the victim. He has faced the trial, appeal and this revision for last 17 years. Under these circumstances, it would not be proper to send him the jail again for serving out the remaining sentence, therefore, the sentence imposed upon the applicant may be reduced to the period for which he has already undergone in the custody and fine amount may be enhanced.

9. Consequently, the criminal revision filed by the applicant is hereby partly allowed. The conviction directed by the Courts below for the offence punishable under Section 326 of IPC is hereby maintained but the jail sentence is reduced to the period, which he has already undergone in the custody, whereas the fine amount is enhanced to the sum of ₹4,000/- (Rupees Four thousand only). The applicant is directed to deposit the fine amount before the trial Court within two months from today. In default of payment of fine amount, he shall undergo for three months R.I. The victim Ramadhar shall get a sum of ₹2,000/- (Rupees Two thousand only) as a compensation out of the fine amount.

**10.** Now, the presence of the applicant is not more required, therefore, it is directed that the bail bonds of the applicant shall stand discharged.

**(N.K. GUPTA)**  
**JUDGE**  
**29.06.2011**

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