



HIGH COURT OF CHHATTISGARH AT BILASPUR
SB: HON'BLE SHRI JUSTICE RANGNATH CHANDRAKAR

Criminal Appeal No. 240 of 2000

Appellants

- 1) Vijaylal Satnami, s/o. Mahettar Satnami, aged about 33 years.
- 2) Babulal Satnami, s/o. Mahettar Satnami, aged about 30 years.
- 3) Bhajoram Satnami s/o. Bhukha Satnami, aged about 45 years.

All residents of Bhandra, Police Station-
Sarangarh, Distt. Raigarh (CG).

Vs

Respondent

State of M.P. (Now State of Chhattisgarh)
through Police Station Sarsiwa, District
Raipur (CG).

(Criminal Appeal u/S 374 (2) of the Code of Criminal Procedure Code 1973)

Present :

Mr. Rohitashva Singh, Advocate for the appellants.
Mr. Tarkeshwar Nande, Panel Lawyer for the State.

JUDGMENT

(30-4-2014)

1. This appeal is directed against the judgment of conviction and order of sentence dated 10-1-2000 passed by 2nd Additional Sessions Judge, Baloda Bazar, District Raipur, in S.T.No. 73 of 1999. By the impugned judgment, appellants have been convicted for offence punishable under Section 323/34 of IPC and sentenced to undergo RI for six months and to pay fine of Rs.500/- each.
2. The facts of the case, in brief, are that on 21-11-1998 at about 8.00 p.m., appellants assaulted the complainants Pukram (PW/6) and Himachal (PW-4) by lathis. When Pukram (PW/6) cried, on hearing the sound, Sakhiram (PW/3) and Shyam Sunder (PW/5) rushed to the spot and saw the incident.

On 22-11-1998 Pukram (PW/6) went to Police Station and lodged first information vide Ex.P/14 and the matter was investigated and challan was prepared under Section 307/34 of IPC.

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3. Statements of the witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation charge-sheet was filed before the court of Judicial Magistrate First Class, Baloda Bazar, who in turn committed the case to the court of Sessions Judge Raipur, from where learned Additional Sessions Judge received the case on transfer for trial.
4. In order to prove the guilt of the appellants prosecution examined as many as twelve witnesses. Appellants were examined under Section 313 of Cr.P.C., in which they denied the circumstances appearing against them and pleaded innocence.
5. After affording opportunity of hearing to both the parties, learned Additional Sessions Judge convicted and sentenced the appellants as aforementioned.
6. Mr. Rohitashva, learned counsel for the appellants, right at the threshold, does not want to argue the matter on merit, but submits that the appellants were in custody from 1-12-1998 to 21-1-1999 (i.e., 22 days). He further submits that the appeal is pending for the last 14 years. Thus, considering the period of detention as well as the pendency of the appeal, the sentence awarded to the appellants may kindly be restricted to the period already undergone by them.
7. On the other hand, learned counsel for the State/respondent opposed the appeal and argued that after appreciating the evidence, the trial court has rightly convicted and sentenced the appellants as aforementioned.
8. I have heard learned counsel for both the parties, perused the record of the trial court including the impugned judgment.
9. In order to appreciate the argument advanced on behalf of the parties I have examined the evidence adduced on behalf of the prosecution.
10. A bare perusal of the record goes to show that the accused appellants faced trial from December, 1998 to January, 2000 and the present appeal

is pending before this court for the last 14 years. The appellants have been convicted under Section 323/34 of IPC and sentenced to undergo RI for six months and to pay fine of Rs.500/- and they were in custody 22 days.

11. Considering the facts and circumstances of the case, I am of the opinion that ends of justice would be met if the sentence awarded to the appellants by the trial court is restricted to the period already undergone by them while maintaining the fine amount imposed by the trial Court. It is stated that fine amount has already been paid by the appellants.

12. Consequently, the appeal is partly allowed. Conviction of the appellants under Section 323/34 is upheld. Now the appellants are sentenced to the period already undergone by them. It is stated that the appellants are on bail. Their bail bonds shall continue for a period of six months in view of Section 437-A of Cr.P.C.

Sd/-
R.N. Chandrakar
Judge

Raju