

1. Bal Krishna Mahli
2. Hafinder Mahli Petitioners

Versus

The State of Jharkhand Opposite Party

With

Cr. Revision No. 4 of 2005

Bhuneshwar Mahli Petitioner

Versus

The State of Jharkhand Opposite Party

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioners : Mr. S.N. Rajgaria, Advocate
(In Cr. Rev.945/2004)

Mr. B.K. Mishra, Advocate
(In Cr. Rev.4/2005)

For the State : Mr. B.N. Ojha, APP (*In Cr. Rev.945/2004*
Mr. Arup Kr. Dey, APP (*In Cr. Rev. 4 /2004*

04/ 28.04.2022 Heard learned counsel for the parties.

2. Since both these revision application arises out of common judgment; as such both are heard together and disposed of by this common order.

3. Both these applications are directed against the judgment dated 16.07.2004, passed by the learned Additional District & Sessions Judge, Lohardaga in Criminal Appeal No. 11 of 2001; whereby the appeal filed by the petitioners has been dismissed and judgment of conviction and sentence dated 24.09.2001, passed by the learned Judicial Magistrate 1st class, Lohardaga, in G.R. No.236 of 1999/ T.R. No.400 of 2001, whereby petitioners were convicted under Section 341 of the Indian Penal Code and sentenced to undergo simple

imprisonment for 15 days and to undergo six months simple imprisonment under Section 323 IPC and further one year rigorous imprisonment under Section 325/34 IPC and also ordered that all the sentences shall run concurrently, has been sustained.

4. The prosecution case is based upon the fardbeyan dated 07.08.1999 of the informant-Deepak Ram. On 06.08.1999 at about 6.00 P.M. evening, the informant Deepak Kumar Ram was standing outside the door of his house. In the meantime the neighbours namely Bhuneshwar Mahli, Hafinder Mahli and Balkrishna Mahli armed with lathi suddenly came and abusing “Sala Harijan Chamar”, you will be uprooted from the village and started assaulting on his head with lathi and as a result bleeding started. Thereafter, accused Hafinder Mahli and Balkrishna Mahli have also assaulted with lathi on his right hand. He raised hulla and screamed to save him. His elder uncle, Pandu Ram came to rescue him. The three accused persons have also assaulted him with lathi causing grievous injury. His elder uncle sustained injury on both hands, head and other parts of the body. Both injured persons fell down and were taken to hospital for treatment. After investigation chargesheet was submitted where the petitioners pleaded not guilty and claimed to be tried, and after trial, they were convicted.

5. Learned counsel for the petitioners confines his

argument on the question of sentence and submits that the petitioner Nos. 1 & 2 (in Cr. Rev. No.945/2004) remained in custody for about 74 days and petitioner (in Cr. Rev. No.4/2005) remained in custody for about 95 days and during entire period of bail, they never misused the privilege of bail; as such, the sentence may be modified in lieu of fine.

6. Learned counsel for the State supported the judgment and submits that there is no error in the findings given by the trial Court. As such, the conviction cannot be set aside.

7. Having heard the learned counsel for the parties and after going through the impugned judgments including the lower courts records and keeping in mind the limited submissions of the learned counsel for the petitioners and also the scope of revisional jurisdiction, I am not inclined to interfere with the finding of the courts below and as such the judgment of conviction passed by the learned trial court and upheld by the learned appellate court is, hereby sustained.

8. So far as sentence is concerned, it is apparent from record that the incident is of the year 1999 and 23 years have elapsed and the petitioners must have suffered the rigors of litigation for the last 23 years. Further, the petitioner Nos. 1 & 2 (in Cr. Rev. No.945/2004) remained in custody for about 74 days and petitioner (in Cr. Rev. No.4/2005) remained in custody for about 95 days and during entire period of bail they never misused

the privilege of bail. Further, the incident does not reflect any cruelty on the part of the petitioners or any mental depravity.

9. In a situation of this nature, I am of the opinion that no fruitful purpose would be served by sending the petitioners back to prison.

10. Thus, the sentence passed by the trial court and upheld by the appellate court is hereby modified to the extent that the petitioners are sentenced to undergo for the period already undergone.

11. With the aforesaid observation, direction and modification in sentence only, these criminal revision applications stands disposed of.

12. The petitioners shall be discharged from the liability of their bail bonds.

13. Let the copy of this order be communicated to the court below.

14. Let the lower court record be sent back to the court concerned forthwith.

(Deepak Roshan, J.)