

(2018) 10 CHH CK 0042
In the Chhattisgarh High Court
Case No : Criminal Revision No. 84 of 2004

Ramratan, Khadiya Satnami @APPELLANT@Hash State of Chhattisgarh

Date of Decision : 22-10-2018

Acts Referred:

Indian Penal Code, 1860 — Section 324, 326
Code of Criminal Procedure, 1973 — Section 357

Citation : (2018) 10 CHH CK 0042

Hon'ble Judges : Vimla Singh Kapoor, J

Bench : Single Bench

Advocate : Deva Ashish Biswas, M. Asha

Final Decision : Allowed

Judgement

1. This revision is directed against the judgment dated 30.01.2004 passed by the First Additional Sessions Judge Balodabazar, in Criminal Appeal No.

267 of 2003, affirming the judgment of conviction and order of sentence dated 12.09.2003 passed by the Judicial Magistrate, First Class, Balodabazar,

in Criminal Case No. 597/1992, convicting the accused/applicant under sections 326 and 324 IPC and sentencing to undergo rigorous imprisonment for

3 years and pay fine of Rs. 1000/-, u/s 326 and rigorous imprisonment for 1 year and to pay fine of Rs. 500/ u/s. 324 IPC, with default stipulations.

2. Case of the prosecution, in brief, is that on the date of incident i.e. 07.05.1990 when the complainant (PW-3) was sleeping outside the house along-

with her grand-daughter, the applicant threw some inflammable substance like acid at them and ran away. On account of this acid attack, complainant

and her grand-daughter suffered injuries on her face and other parts of their body. When people of the vicinity came there on hearing the cries of the

complainant, she is said to have informed them that on account of suspicion of her playing witchcraft, the accused/applicant had disfigured her face by

making the acid attack. After the incident, the complainant (PW-3) lodged the First information Report (Ex.P-3) in Police Station Palari. After

recording of FIR (Ex.P-3), the complainant, Bhog Bai, Dwarika, and Daua were sent hospital for treatment where they received medical treatment.

3. Having taken note of the material on record the Trial Court convicted and sentenced the Applicant as mentioned above which subsequently has been affirmed by the lower appellate Court by the judgment impugned. Hence, this revision.

4. Learned Counsel appearing for the Applicant submits that he is not pressing this revision on merit and confining his argument to the sentence part

thereof only. He further submits that the sentence imposed on the applicant was RI for 3 years and out of which he has already remained in jail for

about one month twenty days. He further submits that as the incident took place in the year 1990 and thereby more than 28 years have already rolled

by, it would be just and proper and in the interest of justice if the sentence so imposed is reduced to the period already undergone by him so that his

already settled life is not endangered.

5. State counsel however, supports the judgment impugned.

6. I have heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. Though there is prayer only in respect of sentence part of the judgment impugned, this Court is required to deal with the conviction part thereof as

well on merit.

8. Victim of the acid attack (PW-3) has categorically stated that on the date of incident when she was sleeping in her house along with her grand-

daughter, accused/applicant came there and threw acid at them and after doing that he left the spot. She has further stated that on account of the act

of the accused/applicant, she suffered injuries on her face, left hand, chest and in the periphery of the eyes. She has further stated that on coming to

know about the incident, the people of vicinity came there to whom also she disclosed the incident. According to this witness three years prior to the

incident also the accused/applicant had blamed her of being involved in witchcraft and since then she had stopped visiting his house. Dr. A.K. Sahu

(PW-22) who medically examined the complainant and Kumari Bhog Bai vide reports Ex.P 7 and 8, has also supported the case of the prosecution

stating that he noticed injuries on various parts of their body including the chest. Other evidence also proves the involvement of the accused/applicant in the crime in question, may be partially.

9. Having thus seen the evidence as above, the act of the accused/applicant that he threw acid at the complainant and her grand-daughter on the fateful day causing various injuries to the victims is fully established. Conviction recorded by the Courts below is thus based on due appreciation of the evidence on record and there is no infirmity in the same. It is accordingly maintained.

10. As regards sentence, keeping in view the fact that the incident had taken place about 28 years back and by now the applicant must be leading a well settled life bearing the burden of his responsibilities, this Court is of the opinion that it would be in the interest of justice to reduce the sentence to the period already undergone by him. At the same time, this Court also thinks it proper to enhance the fine imposed by the Courts below. It is thus enhanced to Rs. 10,000 from that of Rs. 1000/- under Section 326 IPC and to Rs. 5000/- from that of Rs. 500/- under Section 324 IPC. In other words, now the applicant would pay the enhanced amount of Rs. 13,500/- which would be deposited by the applicant in the Court below within a period of three months from the date of receipt of the copy of this order. On such deposit being made, Rs. 9,000 shall be paid to victim (PW-3) and Rs. 4,500/- to another victim Bhog Bai, as compensation in terms of section 357 of the Code of Criminal Procedure.

11. Consequently, the revision is partly allowed to the extent indicated above.

12. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.