

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Criminal Appeal S-1734-SB of 2002 (O&M)
Date of Decision: November 18, 2015**

Kashmir Singh and othersAppellants

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. N.S.Sodhi, Advocate
for the appellants.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

Mr. Amit Verma, Advocate
for the complainant.

T.P.S.MANN, J. (Oral)

The appellants, namely, Kashmir Singh, Gurmit Singh, Harnek Singh, Mohinder Singh, Gurnam Singh, Deoti Bai and Jito Bai @ Kakko Bai along with Jit Singh were tried for committing offences punishable under Sections 148/450/326/324/323/435/149 IPC on the allegations that on 18.3.1995 at about 10.30 a.m., they had caused injuries to Mohinder Singh son of Balu Singh and Gango Bai wife of Balu Singh. On the basis of statement made by injured Mohinder Singh, FIR was registered against appellants and Jit Singh. During the trial of the case, Jit Singh died and proceedings against him were accordingly dropped.

Vide judgment and order dated 11.10.2002, the learned Additional Sessions Judge, Ferozepur, acquitted the appellants of the charges under Section 450 and 435 IPC. However, they were convicted and sentenced as follows:-

- i. All the appellants were convicted under Section 148 IPC and sentenced to undergo rigorous imprisonment for one year each.
- ii. Appellant Kashmir Singh was convicted under Section 326 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for three months whereas appellants Gurmit Singh, Harnek Singh, Mohinder Singh, Gurnam Singh, Deoti Bai and Jito Bai @ Kakko Bai were convicted under Sections 326/149 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.200/- each and in default of payment of fine, to further undergo rigorous imprisonment for two months.
- iii. Appellants Gurmit Singh and Harnek Singh were convicted under Section 324 IPC and sentenced to undergo rigorous imprisonment for one and half years

each whereas appellants Kashmir Singh, Mohinder Singh, Gurnam Singh, Deoti Bai and Jito Bai @ Kakko Bai were convicted under Sections 324/149 IPC and sentenced to undergo rigorous imprisonment for one year each.

iv. Appellant Gurnam Singh was convicted under Section 323 IPC while appellants Kashmir Singh, Gurmit Singh, Harnek Singh, Mohinder Singh, Deoti Bai and Jito Bai @ Kakko Bai were convicted under Sections 323/149 IPC and sentenced to undergo rigorous imprisonment for six months each.

All the sentences were ordered to run concurrently. The period of detention suffered by the appellants during investigation and trial was ordered to be set off against the sentences awarded to them. Hence, the present appeal.

This Court need not go further into the merits of the case for the reason that during the pendency of the appeal the parties have seen sense in setting the matter amicably so that the bickering between the parties come to an end for all times to come. In this regard, the appellants placed on record the compromise deed dated 2.5.2014. As both Mohinder Singh son of Balu Singh and Gango Bai wife of Balu Singh have since died,

the compromise deed was duly signed by Kulwant Singh son of Balu Singh and Amarjit Singh son of Mohinder Singh son of Balu Singh. Copy of the compromise deed was brought on record by the appellants by filing an application under Section 320 (5) Cr.P.C. for allowing them to compound the offences.

When the miscellaneous application filed by the appellants under Section 320 (5) Cr.P.C. for allowing them to compound the offences came up for hearing on 21.1.2015, the parties were directed to get their statements recorded before the Ilaqa Magistrate. Pursuant to the same, both the parties appeared before learned Judicial Magistrate 1st Class, Jalalabad (w) on 23.1.2015 and suffered statements that the matter stood compromised with the intervention of the respectables and without any coercion or pressure from any side.

Not all the offences are compoundable in nature. However, the factum of compromise can be taken as a mitigating circumstance in order to determine the quantum of sentence which is to be imposed upon the convicts.

As per the custody certificates produced by the State counsel, Kashmir Singh, Deoti Bai and Jito Bai @ Kakko Bai had undergone a period of one year and twenty eight days during the trial of the case whereas Gurmit Singh, Harnek Singh and

Mohinder Singh had undergone a period of 10/11 days.

The appellants have been facing the agony of criminal prosecution for the last more than twenty years. They have already settled the matter amicably with the complainant party. As both the parties belonging to the same village, the compromise would go a long way in restoring peace between the parties. Under these circumstances, this Court is of the considered view that the sentences of imprisonment of the appellants can be reduced to the one already undergone by them.

Resultantly, the conviction of the appellants for the various offences for which they stand convicted is upheld. However, their substantive sentences of imprisonment are reduced to the one already undergone by them. The sentences of fine, alongwith their default clauses, are maintained.

The appeal is, accordingly, disposed of.

November 18, 2015
amit rana

(T.P.S. MANN)
JUDGE