

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

**Criminal Misc. Nos.33777-779 of 2015 in
Criminal Appeal No. S-3903-SB of 2015
Date of decision: 30.10.2015**

Jagtar Singh alias Bhola and others ..Applicants/Appellants

Versus

State of Punjab and another ..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes**
- 2. To be referred to reporters or not? Yes**
- 3. Whether the judgment should be reported in the Digest? Yes**

Present: Mr. Kunal Dawar, Advocate
for the applicants-appellants.

Ms. Ritu Punj, Addl. AG, Punjab
for respondent No.1 – State.

Mr. B.S. Saroha, Advocate
for respondent No.2.

Daya Chaudhary, J.

CRM-33777 of 2015

This application is for placing on record Annexure A-1.

Application is allowed and Annexure A-1 is taken on
record.

CRM-33778 of 2015

This application is for impleading complainant/injured-
Roshan Kumar S/o Sh. Sat Pal Singh R/o Village Kamalpur Afgana,
Tehsil and District Gurdaspur as respondent No.2.

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Application is allowed and complainant/injured-Roshan Kumar S/o Sh. Sat Pal Singh R/o Village Kamalpur Afgana, Tehsil and District Gurdaspur is impleaded as respondent No.2. Amended memo of parties attached with the application is taken on record.

CRM-33779 of 2015

Learned counsel for the parties submits that a compromise has been effected between the parties and complainant-injured has no objection in reducing the sentence or to release the appellants on probation.

The appeal stands admitted on 10.09.2015 and recovery of fine was also stayed on that day.

Learned counsel for the parties request for hearing of main appeal.

On their request, the appeal is taken up for hearing today itself.

CRA-S-3903-SB of 2015

The present appeal has been filed to challenge the judgment of conviction and order of sentence dated 26.08.2015 passed by learned Additional Sessions Judge, Gurdaspur.

The appellants faced trial in case FIR No.199 dated 28.12.2010 registered under Sections 308, 325, 323, 341, 148 and 149 of Indian Penal Code (for short 'IPC') at Police Station Sadar Gurdaspur and were convicted and sentenced as under: -

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<i>Name of the convict</i>	<i>Convicted under Section</i>	<i>Sentence imposed</i>	<i>In default of payment of fine</i>
Happy alias Mithun Kumar	308 IPC	RI for five years and fine of ₹10,000/-	Further undergo RI for a period of five months.
	323/149 IPC	RI for one year and fine of ₹500/-	Further undergo RI for a period of one month.
	148 IPC	RI for two years and fine of ₹1000/-	Further undergo RI for a period of two months.
Tarsem Singh, Davinder Singh alias Kaku	308/149 IPC	RI for five years and fine of ₹10,000/-	Further undergo RI for a period of five months.
	323 IPC	RI for one year and fine of ₹500/-	Further undergo RI for a period of one month.
Jagtar Singh	148 IPC	RI for two years and fine of ₹1000/-	Further undergo RI for a period of two months.
	308/149 IPC	RI for five years and fine of ₹10,000/-	Further undergo RI for a period of five months.
	323 IPC	RI for one year and fine of ₹500/-	Further undergo RI for a period of one month.
Darshna Devi	308/149 IPC	RI for five years and fine of ₹10,000/-	Further undergo RI for a period of five months.
	323/149 IPC	RI for one year and fine of ₹500/-	Further undergo RI for a period of one month.

All the sentences were ordered to run concurrently.

Learned counsel for the appellants has raised certain arguments to challenge the judgment of conviction and order of sentence but when the Court is not inclined to interfere with the judgment of conviction, he has restricted his prayer for reducing the sentence to the period already undergone by the appellants keeping

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in view the compromise effected between the parties. Learned counsel for the appellants has relied upon judgment of Hon'ble the Apex Court in **Abrar Ali and another vs. State of U.P., 1992 SCC (Cri) 666** as well as judgments of this Court in **Surja Singh vs. State of Haryana, 1999(4) RCR (Criminal) 101, Gurdarshan Singh vs. State of Punjab, 2003(2) RCR (Criminal) 822, Sat Pal and others vs. State of Haryana, 2005(2) RCR (Criminal) 334 and Manjit Singh and another vs. State of Punjab, 2011(2) RCR (Criminal) 488**. In all the aforecited judgments, offence under Section 308 IPC was there, which is non-compoundable but the sentence was reduced to the period already undergone.

Learned counsel for respondent No.2 has also affirmed the factum of compromise arrived at between the parties.

No doubt, except Section 308 IPC all other offences are compoundable. This Court cannot accord permission to compound the offence under Section 308 IPC but as the compromise has been arrived at between the parties which can certainly be taken into account for taking a lenient view with regard to quantum of sentence in view of the judgment rendered by Hon'ble the Apex Court in **Bankat vs. State of Maharashtra, 2005(1) RCR (Criminal) 306 (SC)**, wherein in a case under Section 326 IPC (offence being non-compoundable), it was not allowed to compound the offence but keeping in view the fact that the incident was ten years old and the parties to the dispute have settled their dispute, the sentence was

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reduced to the period already undergone. In another judgment of Hon'ble the Apex Court rendered in **Jalaluddin vs. State of Maharashtra, 2003 SCC (Cri) 1243**, again it was a case under Section 326 IPC and substantive sentence was reduced to the period already undergone by the appellant on account of the fact that the complainant was closely related to the accused. Same view was taken by Hon'ble the Apex Court in **Ram Ekbal Upadhya and others vs. State of Bihar, 2003 SCC (Cri.) 1011**.

In **Abrar Ali's case (supra)**, the conviction was under Section 308 IPC and sentence was reduced to the period already undergone adding it with a fine of ₹12,500/- each to be paid to the complainant.

Similarly in **Surja Singh's case (supra)** and **Gurdarshan Singh's case (supra)**, the conviction was under Section 308 IPC but because of compromise effected between the parties, the sentence was reduced to the period already undergone.

In the present case also, the accused-appellants are facing agony of trial since registration of FIR i.e., 28.12.2010 and during pendency of appeal, a compromise has been effected between the parties and complainant has no objection in reducing the sentence or even in acquittal of the accused.

Without going into the merits of the case and keeping in view the limited prayer of learned counsel for the appellants for reducing the sentence to the period already undergone on the basis of

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compromise effected between the parties as the purpose of compromise is to maintain peace and harmony in the relations and the fact that the complainant has no objection even in case, the appellants are acquitted of the charge, the present appeal is disposed of with the modification of sentence by reducing it to the period already undergone by the appellants.

However, the conviction is upheld and the sentence of fine shall remain the same.

30.10.2015
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**(DAYA CHAUDHARY)
JUDGE**