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HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.1949 of 1999**

Pande Ram Gada, aged about 30 years, S/o Shri Sukh Ram Gada, R/o Village Gadapara, Nawapara, PS Gobra Nawapara, Distt. Raipur (MP) (Now Chhattisgarh).

---- Appellant**Versus**

State of Chhattisgarh, through Station House Officer, PS Gobra Nawapara, Distt. Raipur (CG).

---- Respondent

For Appellant
For complainants
For respondent/State

Shri Bhaskar Pyasi, Advocate.
Shri Atanu Ghosh, Advocate.
Shri SRJ Jaiswal, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Judgment on Board****14/12/2016**

1. The appellant stands convicted for the offence under Section 307 IPC and have been sentenced to undergo RI for 5 years with fine of Rs.1000/- with default stipulation, vide judgment dated 15.07.1999 passed by the Vth Additional Sessions Judge, Raipur, in Sessions Trial No.28/1999.
2. The case of the prosecution in brief is that, the appellant in the instant case was charged for having assaulted Ramesh Kumar, PW-5, Smt. Kesho Bai, PW-7, Seth Kumari, PW-8 and Shrawan Kumar, PW-9 on 15.10.1998 (about 18 years back). An FIR was lodged in this regard on the same day vide Crime No.148/1998 at police Station, Gobra Nawapara, Distt. Raipur.

3. Thereafter, the matter was put to trial vide Sessions Trial No.28/1999. During the course of trial, the prosecution, in all, has examined as many as 15 witnesses and on behalf of defence, only one witness was examined.
4. After conclusion of trial, the court below finally found the appellant guilty of having committed the offence under Section 307 IPC and accordingly convicted and sentenced him for the period as discussed in first paragraph of this judgment, leading to filing of this appeal.
5. Learned counsel appearing for the appellant assailing the judgment submits that though as per prosecution case there were four injured persons, but except for injuries sustained by PW-5, Ramesh Kumar, all other three injured persons had sustained simple injuries which is not disputed by the counsel for the State also. It is further submitted that pending the appeal before this court, two injured persons namely Shrawan Kumar and Kesho Bai have expired and they have died natural death and the injuries caused by the appellant was not the cause for their death.
6. According to appellant, pending the appeal before this court, the complainants in the instant case namely Ramesh Kumar and Seth Kumari Bai both have compromised the matter with the appellant. The complainants as well as the appellant are near relatives and by efflux of time the parties have resolved the disputes and therefore the complainants do not want the appellant to be prosecuted any further and want the matter to be closed once and for all.

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7. State counsel however submits that since the nature of allegations levelled against the appellant is that of an offence Section 307 IPC and that two stab injuries have been caused at the hands of the appellant on PW-5, Ramesh Kumar, it is not a fit case where permission for compounding the offence can be granted.
8. At this juncture, counsel for the appellant submits that a plain reading of para-9 of deposition of PW-1, Doctor C.B. Gupta, who has examined Ramesh Kumar, would reveal that on account of stab injuries, the intestine of the injured Ramesh Kumar, PW-5 was not in any manner damaged. Further, in para-10 of deposition, he has in a very categorical term has held that injury No.2 & 3 caused upon injured Ramesh Kumar were simple in nature. From the evidence, it is also reflected that injured Ramesh Kumar was not hospitalized for long duration of time and was discharged from the hospital just after a week.
9. What also cannot be brushed aside is the fact that complainant Ramesh Kumar has appeared before the court today along with an affidavit and application filed on behalf of Seth Kumar Bai and states that they have resolved the disputes and since the matter has been amicably settled between the disputing parties, they do not intent to prosecute the appellant any further and want the matter to be closed once and for all.
10. Shri Atanu Ghosh, Advocate, appearing along with the complainant Ramesh Kumar makes statement that he has received instructions from the complainants to state in respect of settlement that has been arrived at between the parties and he submits that since the appellant and the complainants belong to same family and are near relatives, they do not

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want to prosecute the appellant any further and want the matter to be closed once and for all.

11. On query being put to complainant Ramesh Kumar, he submits that he does not want to prosecute the appellant any further as they have entered into compromise and prays that the matter may be permitted to be compounded.
12. Considering the peculiar facts and circumstances of the case, taking into consideration the nature of injuries sustained by the complainants; cause of fight between the parties being trivial in nature; considering the evidence which have come on record particularly the statement of PW-1, Dr. C.B. Gupta, this court is of the opinion that ends of justice would meet if the conviction of the appellant under Section 307 IPC be converted to one under Section 325 IPC. Accordingly, conviction of the appellant stands modified. Conviction of the appellant under Section 307 IPC is set aside and instead he is convicted for the offence under Section 325 IPC.
13. Now pursuant to conviction under Section 325 IPC, if we look into the statement made by the complainants and the affidavit that he has made in addition to the statement that he has made before this court in person and also through his counsel, this court is of the opinion that it is a fit case where the appellant can be permitted to compound the offence as offence under Section 325 IPC is compoundable with the leave of the court.
14. Accordingly, the appeal is allowed to the said extent and the appellant

stands acquitted of the charge under Section 325 IPC on account of compounding the offence.

15. In this view of the matter as the appellant stands acquitted from the charge under Section 325 IPC, it is ordered that he shall be released from jail forthwith as it is informed at the bar that on account of bail jump the appellant had been arrested and is languishing in jail since 27.07.2016.

Sd/-
P. Sam Koshy
Judge

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