

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL APPEAL NO. 848 OF 2014

1. Hetram Soni, age 63 years, S/o Late Katuva Soni.
2. Anuj Soni, age 25 years, S/o Hetram Soni.
3. Lakheshwar Soni, age 32 years, S/o Hetram Soni.
4. Ashok Kumar Soni, age 30 years, S/o Hetram Soni.
All R/o Village-Tilai, Police Station- Janjgir, District Janjgir-Champa (C.G.)

... Appellants

Versus

- State of C.G., through the Police Station Janjgir, District Janjgir-Champa (C.G.)

... Respondent

For Appellants	:	Mr. Arun Kochar, Advocate.
For Respondent-State	:	Ms. M. Asha, Panel Lawyer.
For Complainant	:	Ms. Prabha Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21/11/2016

1. The present appeal has been taken up on I.A. No. 4 of 2016 which has been filed by the Appellants stating that the parties to the dispute in the instant case have settled the dispute out of Court and the complainant in the instant case, i.e., Uma Bai (PW-2), has already compromised with the Appellants herein and they want the matter to be closed once and for all.

2. It is the contention of Shri Arun Kochar, learned Counsel for the Appellants, that the dispute between the parties was a trivial issue on account of being immediate neighbours and as a result the incident occurred and in the course, the complainant unfortunately had a miscarriage. Counsel for the Appellants now submits that both the families have reconciled together and the dispute between the parties has been resolved and therefore they want the matter to be closed once and for all.

3. Counsel for the Appellants further submits that the Appellants have been convicted for the offence under Sections 313/34 and 323/34 of IPC. Section 323 is compoundable and Section 313 is non-compoundable. According to the Counsel for the Appellants, in the light of the compromise that has been entered into between the parties, he only prays that this Court may consider the case of the Appellants for reducing the sentence and the Appellants may be convicted and the sentence part may be reduced to the period already undergone.

4. It was further submitted by the Counsel for the Appellants that Appellant No.1 Hetram Soni is on bail whereas the other three appellant-accused all are in jail since 28.8.2014 as such they have remained in custody for a period of more than two years and two months, and thus sentence may be modified to the period already undergone. He relies upon the decision of the Allahabad High Court in the matter of **Tulsi Devi & Others Vs. State of U.P.** [1996 Cri.L.J. 940] and further also relies upon the decision rendered in the case of **Baldev Singh & Others Vs. State of Punjab** [2012 (2) SCC (Cri) 706].

5. Ms. Prabha Sharma, learned Counsel for the Complainant, PW-2 Uma Bai, along with the Complainant is present before this Court. On a specific query being put to her she makes a categorical submission that being neighbours they have resolved the dispute and they do not want to prosecute the appellant-accused any further.

6. Ms. M. Asha, learned Counsel for the State, though opposes the appeal but submits that since the complainant, who is present before this Court, makes a categorical statement that she does not want to prosecute the Appellants any further, the matter can be disposed in the light of the

submission made by the Counsel for the Appellants by reducing the sentence from the maximum which has been imposed by the Court below.

7. Taking into consideration the peculiar facts and circumstances of the case and in view of the statement made by the complainant, further in the light of the decision rendered by the Allahabad High Court (supra) as also taking into note the decision in Baldev Singh (supra), this Court is of the opinion that the ends of justice would meet if the conviction of the Appellants is upheld and the sentence imposed upon the Appellants is reduced to the period already undergone. It is ordered accordingly.

8. However, taking into consideration the trauma and agony which the Complainant, PW-2 Uma Bai, has undergone by virtue of the assault made by the Appellants resulting in her miscarriage, the fine of Rs.2000/- imposed upon the Appellants for the offence under Section 313 of IPC deserves to be and is accordingly enhanced to Rs.20,000/- which shall be paid by the Appellants jointly and shall be released to the complainant, Uma Bai.

9. Appellant No.1 is already on bail. Therefore, his bail-bonds shall remain in operation for a period of six months from today in view of provisions contained in Section 437-A of CrPC. Since Appellants No. 2 to 4 are stated to be in jail, they shall be released forthwith, if not required in any other case, subject to the depositing of the fine amount.

10. With the aforesaid modification/observation, the appeal stands dismissed.

Sd/-
(P. Sam Koshy)
Judge