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

1. **CRA-S-3039-SB-2009**

Sher Singh and others		 Appellants
	Versus	
State of Haryana		 Respondent

2. **CRA-S-3186-SB-2009**

Ram Kumar and others		 Appellants
	Versus	
State of Haryana		 Respondent

Date of Decision : September 06th, 2016

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Karan Singh, Advocate,
for the appellants (in CRA-S-3039-SB-2009).

Mr. Yash Pal, Advocate,
for the appellants (in CRA-S-3186-SB-2009).

Mr. Munish Dev Sharma, AAG, Haryana.

SHEKHER DHAWAN, J.

Present appeals are directed against the judgment of conviction and order of sentence dated 05.12.2009 passed by learned Additional Sessions Judge (Fast Track), Karnal whereby the appellants were convicted under Sections 148, 325/149, 323/149, 308/149, 452/149, 506 of IPC.

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Appellants namely Sher Singh, Rakesh, Dinesh, Rajesh @ Pali, Ram Kumar, Ranbir Singh, Ajmer Singh, Mukesh, Sachin and Mintu were sentenced as under:-

Under Section	Sentence	In default
148 IPC	to undergo Rigorous Imprisonment for a period of 2 years	
325/149 IPC	to undergo Rigorous Imprisonment for a period of 4 years each and to pay a fine of Rs.1000/-	To undergo rigorous imprisonment for a period of 1 year
323/149	to undergo Rigorous Imprisonment for a period of 1 year	

Appellants namely Ram Kumar, Surender, Balbir @ Pali, Raj Singh, Hukam Singh, Madan, Jagga and Bitoo were sentenced as under:-

Under Section	Sentence	In default
308/149 IPC	to undergo Rigorous Imprisonment for a period of 5 years each and to pay a fine of Rs.1000/-	To undergo rigorous imprisonment for a period of 1 year
325/149 IPC	to undergo Rigorous Imprisonment for a period of 4 years each and to pay a fine of Rs.1000/-	To undergo rigorous imprisonment for a period of 1 year
323/149	to undergo Rigorous Imprisonment for a period of 1 year	
452/149 IPC	to undergo Rigorous Imprisonment for a period of 2 years	

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Under Section	Sentence	In default
148 IPC	to undergo Rigorous Imprisonment for a period of 2 years each	
506 IPC	to undergo Rigorous Imprisonment for a period of 1 year each	

2. Relevant facts for the purpose of decision of this appeal; that on 10.04.2006 an open fight had taken place in the street and both the parties i.e. complainant as well as accused persons sustained injuries. Injured were referred for treatment to General Hospital, Karnal where they were medico legally examined.
3. After completion of investigation proceedings, challan was presented in the Court for trial.
4. During trial, learned Court below completed various proceedings of trial including framing of charge against the accused persons, recording of evidence of the witnesses and examination of accused persons under Section 313 Cr.P.C. After considering the prosecution and the defence evidence on record, the trial Court held the appellants guilty and convicted and sentenced them on 05.12.2009 as detailed in para No.1 of this judgment.
5. Aggrieved of passing of judgment of conviction and order of sentence, the appellants are before this Court by way of present appeals.
6. Learned counsel for the appellants as well as learned counsel for the complainant submitted that the parties have mutually settled their claim. They are neighbourers and now they are living peacefully. More so, the appellants have already undergone a period of more than 5 months while

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remaining in custody, during investigation and trial.

7. I have considered the submissions made by learned counsel for the parties and fact that the dispute had taken place on petty matter amongst the neighbourers about 10 years back and thereafter both the parties have settled the dispute amicably and now they are living peacefully. Injuries were caused to members of both sides. Appellants have already undergone the sentence of more than 5 months. No purpose would be served by sending them behind bars again, rather an opportunity should be given to live them peacefully. Learned counsel for the appellants also placed reliance upon **Ishwar Singh Vs. State of Madhya Pradesh, 2009(1) RCR (Criminal) 1, SC** wherein Hon'ble Apex Court is of the view that even in cases involving offence under Section 307 IPC, where the parties have entered into compromise and the offence is still not compoundable, it is appropriate to order compounding by ignoring the statutory provision. However, while imposing substantive sentence, the factum of compromise between the parties is indeed a relevant circumstance which, the court may keep in mind.

8. In the present case also injured namely Rakesh Kumar, Mintu, Sachin, Ram Kumar, Ranbir Singh, Rajesh, Mukesh, Dinesh, Sher Singh and Ajmer Singh are present in the Court who are duly represented by their counsel and learned counsel for the appellants verified the fact that a genuine compromise has been arrived at between the parties and that is being implemented as well.

9. In view of the above, no purpose shall be served by keeping the appellants in custody and the present appeals are partly accepted to the

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extent that the judgment of conviction dated 05.12.2009 is upheld but the order of sentence passed against the appellants is modified and the sentence awarded to the appellants is reduced to the one already undergone by them in custody.

10. Appeals stand disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

September 06th, 2016
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No