

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

**Criminal Revision 56 of 2008 (O&M)
Date of Decision: August 1, 2016**

Om Parkash and anotherPetitioners
Versus
State through Basau Respondent

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

Present : Ms. Kiran Bala Jain, Advocate
for the petitioners.

Mr. Ashok S. Chaudhary, Addl. Advocate General., Haryana.

Complainant-Basau in person.

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

The petitioners were tried for committing offences punishable under Sections under Sections 205, 419, 465, 468, 471, 467 and 120-B IPC. Vide judgment and order dated 13.2.2004, learned Additional Chief Judicial Magistrate, Kaithal, convicted and sentenced them as under:-

Offences	Sentences
U/s 205/120-B IPC	Rigorous imprisonment for two years and to pay a fine of Rs.2,000/- each. In case of non-payment of fine, each convict will further undergo rigorous imprisonment for three months.

U/s 419/120-B IPC	Rigorous imprisonment for two years and to pay a fine of Rs.2,000/- each. In case of non-payment of fine, each convict will further undergo rigorous imprisonment for three months.
U/s 465/120-B IPC	Rigorous imprisonment for one year
U/s 468/120-B IPC	Rigorous imprisonment for three years and to pay a fine of Rs.2,000/- each. In case of non-payment of fine, each convict will further undergo rigorous imprisonment for three months.
U/s 471/120-B IPC	Rigorous imprisonment for one year.

All the sentences were ordered to run concurrently. Aggrieved of their conviction and sentences, the petitioners preferred an appeal but remained unsuccessful as it came to be dismissed by learned Additional Sessions Judge, Kaithal, vide judgment dated 24.12.2007. Still not satisfied, the petitioners preferred the present revision, in which, they are currently on bail.

The case of the prosecution, as set up by complainant-Basau in the criminal complaint was that the two petitioners had procured a decree in their favour on the basis of written statement filed by complainant-Basau, Smt. Gina, Sardara Ram and Smt. Jeo Devi whereas three years before the said civil suit was filed, Smt. Jeo Devi had already expired. Subsequently, the decree obtained by the petitioners was set-aside in the civil

suit filed by complainant-Basau and Smt. Gina.

This Court need not to go into the merits of the case in view of the compromise having been taken place between the parties during the pendency of the revision petition. Complainant-Basau, who is present in the Court has suffered statement to the effect that the petitioners are related to him as his nephews and during the pendency of the revision and at the instance of the respectables of the village, both the parties have amicably settled the matter. He has also stated that he would have no objection, if in view of the compromise arrived at between the parties, the remaining sentences of imprisonment of the two petitioners are set aside. To the same effect is the statement made by Smt. Gina daughter of Sh. Tunti Ram in the Court.

It is true that most of the offences are not lawfully compoundable. However, if the parties have entered into a compromise, such a compromise can be considered as a mitigating circumstance to decide the quantum of sentence to be imposed upon the convicts.

The petitioners are facing the agony of criminal prosecution for the last more than twenty two years. The dispute between the parties was purely civil in nature and whatever decree had been obtained by the petitioners, has already been set-aside by the Court. So much so, that both Basau and

Smt. Gina have got recorded their respective statements before this Court wherein, they have mentioned about amicable settlement of their matter with the two petitioners.

Resultantly, the conviction of the petitioners, as recorded by the Courts below, is upheld. However, their remaining substantive sentences of imprisonment are set-aside. The sentences of fine alongwith their default clauses are maintained.

The revision is, accordingly, disposed of.

Interlocutory applications are also disposed of.

August 1, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No