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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 412/2016**

SHAKTI DUTTA & ANR

..... Appellant

Represented by: Mr. Ashwin Vaish, Mr. Vinod
Kumar Pandey, Mr. V.
Thomus, Advs.

versus

STATE

..... Respondent

Represented by: Mr. Hirein Sharma, APP with
SI Umesh Yadav, PS Uttam
Nagar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

15.11.2016

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1. The appellants Shakti Dutta and Dheeraj challenge the judgment of conviction dated 18th January, 2016 convicting them for offence punishable under Sections 323/34 IPC and the order on sentence of the even date awarding them sentence 'Till Rising of the Court' and a fine of ₹1000/- each.

2. The grievance of the appellants who are two in number is limited that as the matter had been settled between the parties and the appellants have been convicted only for offence under Section 323/34 IPC which is a compoundable offence, the learned Additional Sessions Judge ought to have compounded the offence instead of convicting the appellants and awarding them sentence 'Till Rising of the Court'. Before the Trial Court respondent No.2 and 3 who are the complainant and victim though supported the case of

CRL.A. 412/2016

page 1 of 2

the prosecution but also admitted that they have settled the matter with the appellants.

3. Respondents No.2 and 3 are present in Court and are identified by the investigating officer. They stand by their statement that they have settled the matter with the appellants and thus the offences be compounded against the appellants.

4. Section 320 (5) Cr.P.C. permits compounding of the offence with the leave of the Court even at the stage of appeal. The trial has already taken place and the roles attributed to each of the accused have been clarified. Since respondent No.2 and 3 have compounded the offence with the appellants and the appellants have been convicted for offence punishable under Section 323/34 IPC only which is a compoundable offence, the offence punishable under Section 323/34 IPC between the parties is compounded. The affect of composition of offence as per Section 320 (8) Cr.P.C. would be acquittal of the appellants for the offence punishable under Section 323/34 IPC.

5. Appeal is accordingly disposed of setting aside the impugned judgment of conviction and order on sentence.

MUKTA GUPTA, J.

NOVEMBER 15, 2016
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CRL.A. 412/2016

page 2 of 2