

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

CRA-S No.2099-SB of 2004 (O&M)

Date of decision: 06.12.2017

Baldev Singh and others

....Appellants

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Mamli, Advocate for the appellants.

Mr. Naveen Sheoran, DAG, Haryana.

Ms. Deepa Jain, Advocate
for the complainants.

ARVIND SINGH SANGWAN J. (Oral)

The present appeal has been filed challenging the judgment dated 11.10.2004 and order of sentence dated 12.10.2004 passed by the Additional Sessions Judge, Jagadhri, convicting the appellants under Sections 323, 325, 506, 148 and 149 of the Indian Penal Code (in short 'IPC') while acquitting them under Section 307 IPC.

Vide order of sentence dated 12.10.2004, the appellants were sentenced to undergo rigorous imprisonment for a period of 03 years and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo simple imprisonment for a period of 1½ months.

This appeal was admitted on 29.10.2004 and, the sentence of the appellants was suspended as the trial Court has granted interim bail to the appellants in order to enable them to file the appeal.

During pendency of the appeal, the parties have entered

into a compromise and the matter was referred to the Mediation and Conciliation Centre of the Court and an award dated 06.12.2017 has been received which has been duly signed by the appellants/accused as well as the complainant and the injured witness – Karnail Singh and Rupinder Singh. The operative part of the award dated 06.12.2017 reads as follows:-

“Brief facts of the cases are that on FIR No.53 dated 11.06.2000 under Section 148/149/323/325/506/307 IPC, P.S. Chappar was registered against the first party by the second party. The first party was acquitted under Section 148, 149, 323, 325 and 506 whereas all the accused were convicted under Section 307. The first party preferred an appeal bearing No. Criminal Appeal-S-2099 of 2004 challenging the conviction. The appeal was admitted. After the admission of appeal, parties entered into a compromise vide compromise dated 09.03.2006 entered into between both the parties. The compromise deed is already on record in Court file vide Criminal Misc. No.18462-463 of 2006 in Criminal Appeal No.2099 of 2004 as Annexure 'A1' and supported by an affidavit Annexure 'A2'. It is worth mentioning here that criminal complaint was filed against the second party arising out of the same incident. The second party has challenged the summoning order dated 14.01.2006 in Criminal Misc. Petition No.69049 of 2006 on basis of compromise dated 09.03.2006. However, after entering into the compromise, the present complaint was withdrawn by the first party.

- 1. The present appeal is being sent to Mediation Centre by the Hon'ble Mr. Justice Arvind Singh Sangwan for the recording of statements of the parties to dispute.*
- 2. I, the undersigned has been assigned the present matter for recording of statement/settlement between the parties.*

3. *That the parties have out of their own free will without any pressure of undue influence are making the present settlement below:-*

a) *That both the parties belongs to the same village and are relatives and close friends.*

b) *That the second party has no objection if the present appeal is allowed on the basis of compromise already entered into between the parties on 09.03.2006. Both the parties have agreed that they have no grievance left against each other and they honor the compromise already entered into between them in 2006.*

c) *The first party has already withdrawn the complaint case filed by them. Both the parties have agreed that they will live in peace and harmony and will not quarrel in future.*

d) *It has been mutually agreed that both the parties will withdraw all the litigations, if pending in any Court of law regarding the same occurrence within a period of 15 days.”*

Counsel for the appellants has submitted that in view of the compromise arrived at between the parties, the impugned judgment and order of sentence be set-aside. It is further submitted that the FIR pertains to the year 2000 and since then, the appellants/accused were facing the agony of protracted trial. It is also submitted that the appellants and the complainant are residents of same village and with the intervention of respectables, they have resolved all their civil and criminal disputes and have decided to live in peace, therefore, it will be in the interest of justice, if the impugned judgment of conviction and order of sentence is set-aside.

Counsel for the complainant – Karnail Singh and Rupinder

Singh has not opposed the submissions made by counsel for the appellants.

Counsel for the appellants, at this stage, has relied upon the judgment *“Jagmeet Singh and State of Punjab and another”*, 2016(3) RCR (Criminal) 633, where this Court in view of the compromise arrived at between the parties, allowed the appeals preferred by the appellants/accused persons.

Counsel for the appellants has further submitted that there is a delay of 144 hours in registration of the FIR which was not explained by the prosecution and there are many contradictions in ocular and medical version of the prosecution witnesses. It is further submitted that from the statement of PW7, it cannot be held that injury No.7 sustained by the injured witness was grievous in nature as this witness has stated that he has declared it grievous, on the basis of the opinion of the Orthopedic Surgeon. However, the said surgeon was never examined by the prosecution. It is, thus, submitted that the offence under Section 325 IPC is not made out. It is also submitted that the prosecution witnesses i.e. PW8, P10 and PW11 being in relation of complainant are highly intrested witnesses.

Counsel for the appellants has further submitted that the compromise has taken place in the year 2006 itself and for the last about 11 years, the appellants/accused persons have not committed any offence subsequently and have adhered to the compromise which was effected between the parties in the year 2006.

Considering the submissions made by counsel for the parties and in view of the fact that they have entered into a valid

compromise; while facing the trial the appellants were on bail and for the last about 11 years have not misused the concession of bail; the appellants are not involved in any other case and also in view of the fact that from the ocular and medical evidence, it is not proved that the injured witnesses have received grievous injury and in view of ***Jagmeet Singh's case (supra)***, in order to give effect the terms and conditions of the compromise vide which the parties have decided to live in peace as they are in the brotherhood of the same village and they want to maintain peace and harmony and good relations in future, the present appeal is allowed, the judgment of conviction dated 11.10.2004 and order of sentence dated 12.10.2004 passed by the Additional Sessions Judge, Jagadhri is set-aside and the appellants are acquitted of the charges framed against them.

06.12.2017

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**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No