

In the High Court of Punjab and Haryana at Chandigarh

**Criminal Misc. No. 25024 of 2017 in/and
Criminal Appeal-S-1567-SB of 2012
Date of Decision: 14.9.2017**

Jaswinder Singh alias Raju and others

.....Appellants

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. P.S.Ahluwalia, Advocate
for the appellants.

Mr. A.S.Dhaliwal, DAG, Punjab.

Mr. Arnav Sood, Advocate
for respondent No. 2.

HARI PAL VERMA, J. (ORAL)

CRM-25024-2017

Prayer in this application filed under Section 320 read with Section 482 Cr.P.C. is for permission to compound the offences as the matter has been compromised between the parties.

For the reasons stated in the application, the same is allowed.

On the request of the counsel for the parties, the main appeal is taken up for hearing today itself.

CRA-S-1567-SB-2012

The appellants have filed the present appeal against the

judgment of conviction dated 19.4.2012 and order of sentence dated

20.4.2012 passed by the learned Sessions Judge, Hoshiarpur whereby the appellants were sentenced as under:-

<i>Sr. No.</i>	<i>Name of convict</i>	<i>Under Section</i>	<i>Substantive sentence awarded</i>	<i>Fine imposed</i>
1.	Jaswinder Singh	325 IPC	Rigorous imprisonment for 2½ years	Rs. 3000/- and in default of payment of fine to undergo further RI for six months.
		323 IPC	Rigorous imprisonment for one year	Nil
		341 IPC	Rigorous imprisonment for one month	Nil
2.	Gurpreet Singh	325 read with Section 34 IPC	Rigorous imprisonment for 2 years	Rs. 2000/- and in default of payment of fine to undergo further RI for four months.
		323 IPC	Rigorous imprisonment for one year	Nil
		341 IPC	Rigorous imprisonment for one month	Nil
3.	Ranjit Singh	325 read with Section 34 IPC	Rigorous imprisonment for 2 years	Rs. 2000/- and in default of payment of fine to undergo further RI for four months.
		323 IPC	Rigorous imprisonment for one year	Nil
		341 IPC	Rigorous imprisonment for one month	Nil

All the sentences to run concurrently.”

Learned counsel for the appellants states that the appeal was admitted on May 10, 2012 and while the same was pending before this

Court, the matter has been compromised between the parties and so far as complainant Gurnam Singh is concerned, he has died during the trial and the injured Sarabjit Singh is competent to seek compounding of the offences. He further states that injured Sarabjit Singh has placed on record his affidavit admitting the very compromise between the parties. So far as the offences under Section 323, 341 IPC are concerned, in view of Section 320(1) Cr.P.C., the same are compoundable whereas the offence under Section 325 IPC is though compoundable but with the permission of the Court as provided under Section 320 (2) Cr.P.C.

Learned State counsel states that he has no objection if the matter is compounded viz-a-viz reference to the relevant provision of law including Section 320(5) Cr.P.C.

I have heard learned counsel for the parties.

The relevant provisions of Section 320(1), (2) and (5) Cr.P.C. which are relevant for the present case read as under:-

(1) *The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that table.*

<i>Offence</i>	<i>IPC Section</i>	<i>Compoundable by</i>
<i>Voluntarily causing hurt.</i>	<i>323</i>	<i>The person to whom the hurt is caused.</i>
<i>Wrongfully restraining or confining any person.</i>	<i>341</i>	<i>The person restrained or confined.</i>
<i>x x x x</i>	<i>x x x</i>	<i>x x x x</i>

(2) *The offences punishable under the sections of the Indian*

Penal (45 of 1860) Code specified in the first two columns of the Table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that Table:

<i>Offence</i>	<i>IPC Section</i>	<i>Compoundable by</i>
<i>Voluntarily causing grievous hurt.</i>	<i>325</i>	<i>The person to whom hurt is caused.</i>
<i>x x x x</i>	<i>x x x</i>	<i>x x x x</i>

- (3) *x x x*
- (4) *x x x*
- (5) *When the accused has been committed for trial or when he has been convicted and an appeal is pending no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard."*

Having heard the counsel for the parties and taking into consideration the affidavit of injured Sarabjit Singh as well as the compromise dated 8.5.2017 (Annexure A-1) as entered between the parties and having recourse to provision of Section 320(5) Cr.P.C., the present appeal is accepted and accordingly the appellants are ordered to be acquitted of the offences for which they were convicted by the trial Court subject to deposit of Rs. 25,000/- with the District Legal Services Authority, Hoshiarpur within one month from today.

The bail bonds of the appellants shall be discharged only on furnishing the receipt of the deposit of the amount.

In terms of the compromise so arrived at between the parties,

the appellants shall adhere to the said compromise in its totality and will not raise any technical objection, if any.

(HARI PAL VERMA)
JUDGE

September 14, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No