

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

**CRA S-2107-SB of 2011 (O&M)
Decided on : 20.11.2017.**

Harwinder Singh

...Appellant

Versus

State of Punjab and another

...Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Ashish Gupta, Advocate,
for the appellant.

Ms. Anju Arora, Addl. AG Punjab.

Mr. Vikas Garg, Advocate,
for respondent No.2.

JITENDRA CHAUHAN, J.

CRM No.31022 of 2017

This is an application for disposal of main appeal on the basis of compromise-deed, Annexure A-1 entered into between the parties, during the pendency of present appeal.

The application is allowed and the main appeal is taken on today's board for consideration.

Main appeal

This is an appeal against the judgment and order dated 09.08.2011, passed by Additional Sessions Judge, Barnala whereby the appellant has been convicted under Sections 366 and 120-

B IPC and sentenced to undergo RI for five years and to pay fine of Rs.2000/- with default stipulation.

The appellant has been convicted on the allegations that on 21.06.2010 in the area of Police Station City, Barnala, he kidnapped the prosecutrix, a minor girl of 16 years of age, from the lawful guardianship of her parents in conspiracy with Baljinder Singh @ Nikka, Manjit Kaur and Ranjit Singh (non-appellant).

It is contended that with the intervention of the respectable and Panchayat members, a compromise has been reached at between the prosecutrix and the appellant. In fact, the FIR is a result of some misunderstanding between the parties and the same has been now resolved. The prosecutrix is happily married and residing at her matrimonial home. It is therefore, submitted that the appellant be acquitted on the basis of compromise.

On the other hand, the learned State counsel opposes the prayer of the learned counsel for the appellant and submits that after a judgment of conviction has been passed, the appellant cannot be acquitted on the basis of compromise.

Learned counsel for respondent No.2/prosecutrix admits the factum of compromise.

Hon'ble the Supreme Court in **Manohar Singh vs.**

State of Madhya Pradesh 2014 (3) RCR 685 has held as under:-

“In this case, the appellant is convicted under

Section 498-A of the IPC and sentenced to undergo six months imprisonment. He is convicted under Section 4 of the Dowry Act and sentenced to undergo six months imprisonment. Substantive sentences are to run concurrently. Even though the appellant and respondent No. 2-wife have arrived at a compromise, the order of conviction cannot be quashed on that ground because the offences involved are non compoundable. However, in such a situation if the court feels that the parties have a real desire to bury the hatchet in the interest of peace, it can reduce the sentence of the accused to the sentence already undergone. Section 498-A of the IPC does not prescribe any minimum punishment. Section 4 of the Dowry Act prescribes minimum punishment of six months but proviso thereto states that the Court may, for adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may be less than six months. Therefore, sentence of the appellant can be reduced to sentence already undergone by him.”

Hence, in view of the compromise reached at between the parties and the guidelines laid down by Hon'ble the Supreme Court, this Court feels that no useful purpose would be served in keeping the proceedings alive. It will be in the interest of justice, if the settlement reached between the parties is accepted.

Accordingly, the impugned judgment of conviction dated 09.08.2011 is upheld. However, the order of sentence dated 09.08.2011 is modified to the extent that the sentence of the appellant is reduced from five years to the period already undergone by him subject to payment of fine of Rs.25,000/-. The amount of fine so deposited shall be paid to the prosecutrix as compensation. In case the

payment is not made within two months from today, the present appeal would be deemed to be dismissed without any further notice.

The appeal stands disposed of accordingly.

20.11.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

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