

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

CRR-508-2012 (O&M)

Date of decision :04.08.2017

Dharambir and others

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Vishal Rattan Lamba, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J. (Oral)

Dharambir, Hemant Kumar and Sachin Sanjeev, all of them being accused in FIR No.41 dated 16.03.2001 for offences under Sections 323, 324, 325/34 of the Indian Penal Code (hereinafter to be referred as “IPC”), registered with Police Station Sadar Rewari were sent up to face trial for commission of such offences by Station House Officer of Police Station Sadar Rewari. They were tried by the Court of Judicial Magistrate Ist Class, Rewari and vide judgment dated 27.07.2010 they were convicted and vide order dated 30.07.2010 were sentenced as follows: -

“All the convicts are sentenced to undergo rigorous

imprisonment for nine months each for commission of offence punishable under Sections 323/34 IPC and they are further sentenced to undergo rigorous imprisonment for a period of three years each and to pay a fine of ₹2,000/- each for the offence punishable under Sections 324/34 IPC. Convicts are further sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of ₹2,000/- for the offence punishable under Sections 325/34 IPC. They are further sentenced to undergo rigorous imprisonment for a period of four months in default of payment of aforementioned amount of fine.”

Feeling aggrieved by said judgment of their conviction and order of their sentence, they had preferred an appeal, that appeal was disposed by learned Sessions Judge, Rewari vide judgment dated 08.02.2012 and judgment and order passed by the trial Court were upheld whereas appeal was dismissed. The accused-convicts were taken into custody at the time of decision of appeal by learned Sessions Judge, Rewari.

Feeling aggrieved, the accused-convicts had filed the instant revision in this Court, notice of which was issued to the State of Haryana. The revision was admitted on 28.03.2012 when Sachin Sanjeev was released on bail. Subsequently, vide order dated 24.05.2012 other two petitioners namely Dharambir and Hemant Kumar were ordered to be released on bail by suspending their sentence during the pendency of the revision petition.

The parties have since entered into a settlement and have come up with a prayer that as result of the compounding of offences the revision

petition be allowed and the revision petitioners, who are accused-convicts be acquitted. Complainant – Ved Parkash had appeared in the Court on 26.07.2017 along with his counsel Sh. A.S. Brar, Advocate and he admitted the factum regarding compromise with accused by pleading 'no objection' if the case is decided on the basis thereof.

Affidavits of all the accused have been placed on file as regards the matter having been compromised between them and the complainant.

My attention has been drawn to Section 320 Cr.P.C. in terms of which of the offences in which the accused have been convicted i.e. Section 323 IPC can be compounded by the person to whom cause is hurt, similarly is position as regards offence under Section 325 IPC, though permission of the Court is required for that purpose, Section 324 IPC has been made non-compoundable, however, it has been submitted that at the time of incident this offence was compoundable. This fact is so conceded by learned State counsel.

Learned counsel for the petitioners has relied upon judgment of Hon'ble Apex Court **Hirabhai Jhaverbhai vs. State of Gujarat and others** **2010 AIR (SC) 2321** it was a case where the accused had been convicted and sentenced for offence under Section 324 IPC, however, the parties had settled the dispute and had expressed willingness to compound the offence observing that offence was committed on 23.07.1986, when it was compoundable with permission of the Court. Though it was made non-compoundable after coming into force of Criminal Procedure Code (Amendment) Act, 2005 w.e.f. 23.06.2006. The parties were allowed to compound the offence, resultantly the accused was acquitted.

In this case also the date of incident is 16.03.2001 i.e. prior to coming into force of Criminal Procedure Code (Amendment) Act, 2005 vide which offence under Section 324 has been made non-compoundable. In that way such, offence was compoundable with permission of the Court on the date of incident. As the matter has been settled by the complainant and accused, I find it proper and appropriate to allow them to compound the offence under Sections 324 and 325 IPC in terms of Section 320(6) Cr.P.C.. As regards offence under Section 323 IPC, the same is compoundable by complainant and no permission of the Court is required with that.

Resultantly the revision petition is allowed and the petitioners / accused – convicts are acquitted of the charges framed against them. Necessary intimation be sent to the quarter concerned.

04.08.2017
Gaurav Sorot

(H.S. MADAAN)
JUDGE

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**