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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.976 of 2001

Charku alias Raj Kumar, S/o Sahadeo, aged about 30 years, resident of Barbaspur, P.S. Manendragarh, District Korea, Chhattisgarh

---- Appellant

versus

State of Chhattisgarh through P.S. Manendragarh, District Korea, Chhattisgarh

--- Respondent

For Appellant	:	Ms. Sunita Jain, Advocate
For Respondent	:	Shri R.K. Jaiswal, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

3.4.2018

1. Heard on I.A. No.1 preferred under Section 320(5) of the Code of Criminal Procedure and I.A. No.2 moved under Section 320(2) of the Code of Criminal Procedure.
2. On the basis of the complaint made by Ravi Kumar, police registered a crime and on completion of the investigation filed a charge-sheet for offence punishable under Section 307 of the Indian Penal Code. After trial, vide judgment dated 29.9.2001, co-accused Jairam has been acquitted of the charges framed against him and the present Appellant has been convicted under Section 324 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for two years and to pay fine of Rs.1,000/- with default stipulation.
3. Learned Counsel appearing for the Appellant submits that the Complainant and the Appellant have amicably settled the dispute out of the Court. She further submits that the offence under Section 324 of the Indian Penal Code is non-compoundable after

the amendment took place in the Code of Criminal Procedure in the year 2005, but, in the present case, at the time of commission of offence, i.e., in the year 1998 and on the date of passing of the judgment by the Trial Court, i.e., in the year 2001, the offence was compoundable. Reliance has been placed on **(2010) 6 SCC 688 (Hirabhai Jhaverbhai v. State of Gujarat)**.

4. Both the Complainant and the Appellant were present before the Additional Registrar (Judicial) on 5.2.2018. The Complainant and the Appellant were duly identified by Learned Counsel appearing for the Appellant. The Complainant and the Appellant have stated that they have amicably settled their dispute out of their free will.
5. In **Hirabhai case** (supra), it has been held by the Supreme Court as follows:

“5. This Court finds that after coming into force of the Code of Criminal Procedure (Amendment) Act, 2005 from 23-6-2006 the offence under Section 324 IPC is made non-compoundable. However, in this case the offence under Section 324 IPC was committed on 23-7-1986 on which date it was compoundable with the permission of the court. As the Code of Criminal Procedure (Amendment) Act, 2005 is not applicable to the facts of the case, the offence under Section 324 IPC would be compoundable with the permission of the court.”

6. In the instant case also, the offence was committed in the year 1998 and the judgment was passed by the Trial Court on 29.9.2001, i.e., prior to coming into force of the Code of Criminal Procedure (Amendment) Act, 2005 with effect from 23.6.2006.

7. In view of the foregoing discussion, the permission sought to compound the offence deserves to be and is hereby granted. Hence, I.As. No.1 and 2 are allowed. In view of sub-section (8) of Section 320 of the Code of Criminal Procedure, the Appellant is acquitted of the charge framed against him under Section 324 of the Indian Penal Code.
8. Consequently, the appeal stands disposed of in the aforesaid terms.

Sd/-
(Arvind Singh Chandel)
Judge