

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

**CRA-S-1416-SB of 2007 (O&M)
Date of Decision: 19.12.2018**

Pawan Kumar and others

.....Appellants

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Jarnail S. Saneta, Advocate for the appellants.

Mr. Rahul Mohan, Deputy Advocate General, Haryana
for respondent No.1/State.

Mr. Naresh Kaushik, Advocate for respondent Nos.2 and 3.

MAHABIR SINGH SINDHU, J.

Present appeal has been filed against the impugned judgment of conviction and order of sentence dated 12.07.2007 and 13.07.2007, respectively, passed by learned Additional Sessions Judge, Karnal, vide which, the appellants were convicted and sentenced under Sections 325/149 of the Indian Penal Code for a period of two years each along with other minor offences.

All the sentences were ordered to be run concurrently.

Brief facts of the case are that Pala Ram (PW-1) made a complaint dated 13.02.2004 (Ex.P-1), alleging that on 12.02.2004, he had gone to visit his in-laws and while coming back in the evening, his wife-Santro told him that in the noon, Rajo Devi w/o Prem Chand and Anju d/o Prem Chand had thrown the garbage at their door, to which, she objected and upon which, Rajo Devi raised a

quarrel with her. Further alleged that complainant-Pala Ram went to Sarpanch Satnam Singh and narrated the whole incident. At about 5:30 PM, when complainant reached in front of his house, accused Hawa Singh, armed with *lathi*, raised a *lalkara* that the complainant would be taught a lesson and he gave a *lathi* blow, which hit the complainant on the right side of his head. Accused Pawan Kumar, who was also present at the spot and armed with a *lathi*, gave a *lathi* blow on the arm of the complainant. In the meantime, accused-Rajo Devi came there and gave slaps and fist blows to the complainant. At that time, Kreshni, Banwari, Ram Mehar, Saroj, Bala, Annu and Ram Dei also came there and joined the accused party. In order to save himself, complainant raised a noise and the same attracted to his brother-Dhanpat. Accused-Rajo Devi proclaimed that Dhanpat should be killed. Accused Hawa Singh and Pawan both gave *lathi* blows on the head of Dhanpat. All other aforesaid accused persons also gave fist and kick blows and as a result thereof, complainant and his brother had fallen down. On raising alarm, several persons reached at the spot. On seeing them, accused persons along with their respective weapons fled away from the spot after given threats to the complainant party. The complainant and his brother were shifted to the Civil Hospital, Karnal, where they were medico-legally examined. On receipt of telephonic message from Police Post, General Hospital, Karnal regarding the admission of injured-Dhanpat, PW 9-S.I. Shamsheer Singh along with other police officials went to the Police Post and from there, he obtained a Ruqa (Ex.P-13) and MLR of the injured-Dhanpat. On an application (Ex.P-5) regarding the fitness of injured Dhanpat, he was declared unfit, vide endorsement (Ex.P-5/A) by the Medical Officer concerned. Thereafter, statement of the complainant (Ex.P-1) was recorded and after

making endorsement (Ex.P-1/A), the same was sent to the Police Station Sadar, Karnal for registration of the case and on the basis of which, formal FIR bearing No.44 dated 13.02.2004, under Sections 147, 149, 323 and 506, IPC, Police Station Sadar Karnal (Ex.P-3) was registered and investigation was conducted by the police against all the accused. Rough Site Plan (Ex.P-21) was prepared at the instance of the complainant. On 17.02.2004, after obtaining the opinion (Ex.P-6) of the Medical Officer, declaring the injured fit for making the statement, his statement under Section 161 Cr.P.C. was recorded. On receipt of X-ray report and films from General Hospital, Karnal, Section 325, IPC was added due to fracture of left tempo parietal bone of the skull. After obtaining the opinion of the doctor concerned regarding the nature of the injury, Section 307, IPC was added. On 10.03.2004, accused Rajo Devi, Banwari, Ram Mehar and Krishni joined the investigation and released on bail in compliance of order passed by Additional Sessions Judge, Karnal. Accused Pawan Kumar and Hawa Singh were arrested on 21.03.2004. The weapons, which used in the crime, were also taken into police custody. During investigation, accused Ram Devi, Saroj, Bala and Annu were found to be innocent and their names were kept in Column No.2. After completion of the investigation, challan was presented against the accused persons before the Court of competent jurisdiction and the case was committed to the Sessions Court by learned Illaqa Magistrate, vide order dated 04.06.2004, on addition of Section 307, IPC as the said offence is triable by the Court of Sessions. The charges under Sections 147, 323/149, 307/149 and 506, IPC were framed against the appellants, to which, they pleaded not guilty and claimed trial. It also needs to be mentioned here that after recording the examination-in-chief of the complainant, an application under Section 319

Cr.P.C. was filed for summoning of Ram Devi, Saroj, Bala and Annu as additional accused to face trial, which was dismissed by learned trial Court, vide order dated 31.08.2005.

In order to prove the case of the prosecution, 10 witnesses were examined and also produced documentary evidence.

The entire material was put to the appellants/accused under Section 313 Cr.P.C., but they claimed innocence and stated that they have been falsely implicated in the present case. In defence, Ram Dia was examined as DW-1.

Learned trial Court, after taking into consideration the entire material available on record, convicted the appellants/accused and sentenced them as mentioned above. Hence, the present appeal.

It has been pointed out that during the pendency of the present appeal, the matter has been compromised between the parties and this Court, on 11.07.2016, passed the following order:-

“ In the light of contentions that the parties have since then effected compromise, they are directed to put in appearance before the Illaqa Magistrate, Police Station Karnal within 15 days from today to record their statements and the Illaqa Magistrate shall make report as to its satisfaction and submit it back before the next date of hearing.

List on 28th September, 2016. ”

In view of the above order, statements of both the parties i.e. complainant-Pala Ram, injured-Dhanpat as well as accused persons namely, Pawan Kumar, Hawa Singh, Rajo Devi, Banwari Lal and Kreshni were recorded by learned Additional Chief Judicial Magistrate, Karnal, wherein, they agreed that compromise has been effected between the parties. Learned Additional Chief Judicial Magistrate, Karnal, has submitted its report dated 02.02.2016 and

the relevant part of the same reads as under:-

“ In this regard, it is respectfully submitted that on 19.8.2016, the complainant Pala Ram and injured Dhanpat as well as accused Pawan Kumar, Hawa Singh, Rajo Devi, Banwari Lal and Kreshni have appeared before the court of undersigned and their statements were recorded. The copy of statements of complainant Pala Ram and injured Dhanpat as well as accused Pawan Kumar, Hawa Singh, Rajo Devi, Banwari Lal and Kreshni are annexed herewith for your honour's kind perusal. It is further submitted that from the statements of the parties, it appears that the matter has been settled voluntarily and without any pressure or coercion. ”

A perusal of the aforesaid report clearly reveals that during the pendency of the present appeal, the matter has been amicably settled by the parties.

Even learned State Counsel has fairly stated that in view of the provisions contained under Section 320 Cr.P.C., the offences are compoundable with the permission of this Court as the injured as well as complainant also agreed for compounding of the offences.

Heard learned Counsel for the parties and perused the paper-book.

Both sides have agreed that in view of the provisions of Section 320 Cr.P.C., the offences in question are compoundable. Sub Sections 6 and 8 of the same read as under:-

- (6)** *A High Court or Court of Session acting in the exercise of its powers of revision under section 401 may allow any person to compound any offence which such person is competent to compound under this section.*
- (8)** *The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.*

Since parties have settled the matter amicably and undisputedly, the offences are compoundable, it would result into peace and harmony for both the parties as well as in the interest of justice. Therefore, this Court allows the present appeal by permitting the parties to compound the offences on the basis of compromise arrived at between them.

In view of above, the impugned judgment of conviction and order of sentence dated 12.07.2007 and 13.07.2007, respectively, passed by learned Additional Sessions Judge, Karnal, are set aside and the appellants are acquitted of the charges. Their bail bonds and surety bonds stand discharged.

December 19, 2018

rekha sharma/Gagan

(MAHABIR SINGH SINDHU)

JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes