

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-124-SB-2005 (O&M)
Date of decision: 26.10.2018

Vinod

... Appellant

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: None for the appellant.

Mr. Himmat Singh, DAG, Haryana.

Mr. Bhupinder Ghanghas, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this appeal is for setting aside the judgment of conviction dated 10.12.2004 passed by the Additional Sessions Judge (Fast Track Court), Bhiwani, vide which the appellant was convicted under Section 307 of the Indian Penal Code (for short 'IPC') read with Section 34 IPC and the order of sentence dated 13.12.2004, vide which the appellant was sentenced to undergo R.I. for a period of four years, for an offence punishable under Section 307 IPC read with Section 34 IPC along with fine of Rs.2,000/- and in default of payment of fine, to further undergo R.I. for six months.

Brief facts of the case are that on 11.11.2003, a VT message was received from Police Station Sadar, Bhiwani regarding admission of the injured Billoo in General Hospital, Bhiwani upon which Mukhtiar Singh ASI of Police

Post Mundhal, went there and collected medical ruqa and MLR of the injured along with one parcel containing clothes. On the inquiry made by ASI Mukhtiar Singh in emergency ward of the hospital, it was learnt that injured had been referred to PGI MS, Rohtak. Thereafter, ASI Mukhtiar Singh went to PGI MS, Rohtak and after seeking opinion regarding fitness of the injured, he recorded statement of Billoo son of Pale Ram. It was averred by complainant Billoo that on 10.11.2003 at about 6.30 p.m., he had gone to the shop to bring sugar and tea and when he was returning to his house after procuring tea and sugar, then Vinod son of Ramdhari, Ajmer son of Ramesh and Naseeb @ Kalia son of Balbir, all residents of Dhanana, were standing on the way. He further alleged that when he was crossing by their side then Vinod put his leg in front of him, all of a sudden and due to that he fell down. He further alleged that Vinod and Ajmer overpowered him while Naseeb @ Kalia inflicted a knife blow on the left side of his waist. He raised alarm "*mar diya mar diya*" and on hearing his cries, his elder brother Ramesh and his cousin Wazir son of Ranjeet Singh came from his house and rescued him. He further alleged that the assailants went away with their respective weapons and thereafter, his brother Ramesh and cousin Wazir took him to General Hospital, Bhiwani after arranging a conveyance. He further stated that since he was having serious injury so the doctor of General Hospital, Bhiwani referred him to PGIMS, Rohtak for treatment. It was further stated that aforesaid assailants caused him injuries without any fault. On this statement of the complainant, FIR was lodged. Investigation was set into motion. Site plan of the place of occurrence was prepared. Statements of the witnesses were recorded by the police. Accused were arrested. After completion of the investigation, report under Section 173

Cr.P.C. was submitted in the Court of learned Illaqa Magistrate.

Copy of the challan was supplied to the accused persons and thereafter, the case was committed to the Court of Sessions. Two other accused persons Ajmer and Naseeb claimed themselves to be juvenile and in this regard, they had moved an application. On this, inquiry was conducted and both these accused persons were found to be juvenile and case against them was sent to the Principal Magistrate, Juvenile Justice Board, Hisar vide order dated 29.04.2004.

Present appeal was admitted and sentence of the appellant was suspended vide order dated 13.01.2005. During pendency of the appeal, the parties have settled their dispute and the matter was referred to the Mediation and Conciliation Centre of this Court for recording their statements and to submit a report with the regard to the compromise.

The Mediator has recorded statement of the injured witness Billoo @ Billu, who has stated that FIR was got registered against Vinod and two other persons. The trial Court has convicted appellant Vinod, whereas two other persons were acquitted. He has further stated that with the intervention of elders and respectables, misunderstanding has been removed between the parties and the appellant has paid an amount of Rs.40,000/- in lieu of medical expenses incurred by him. He has also stated that since the parties are residing in the same village, they have left with no other ill-will, grouse or complaint against each other. Similar statement was made by appellant Vinod.

In view of the above, Mediator has submitted a report stating that the parties have compromised the matter on the following terms and conditions:-

“Terms & Conditions

1. *The parties have agreed and accepted that the misunderstanding between them has been removed and presently the parties have no ill-will or grouse against each other or any other family member of either of the parties.*
2. *The parties have agreed and accepted that Vinod-accused/appellant has paid an amount of Rs.40,000/- (Rupees Forty Thousand only) to Billoo @ Billu-complainant in lieu of medical expenses incurred by him. Billoo @ Billu has admitted the receipt of Rs.40,000/- medical expenses paid by Vinod. This amount as refund of medical expenses is full and final and no further amount shall be claimed by Billoo @ Billu. Billoo @ Billu or any other family member of Billoo @ Billu shall not claim any damages or compensation against Vinod or any other family member of Vinod or shall file any such suit.*
3. *The parties have agreed and accepted that Billoo @ Billu-complainant shall have no objection for the decision/disposal of the instant appeal i.e. CRA-S-124-SB of 2005 in the terms of present settlement.*
4. *The parties have agreed and accepted that neither Vinod nor any other family member shall institute or file any case against Billoo @ Billu or any other family member claiming compensation or damages etc. relating to the present subject matter being compromised today.*
5. *The parties have agreed and accepted that as directed by the Hon'ble High Court, the parties, either personally or through counsel shall make a statement in support of the present settlement. Both the parties have got their separate statements recorded and are being placed on the file separately.*
6. *With the execution of the present compromise, entire dispute between the parties shall stand settled. None of the parties shall file any unwanted litigation against the other party.*
7. *This compromise has been reached between the parties without any pressure and both the parties have very happily agreed to*

abide by the terms and conditions of the agreement. Both the parties shall be bound with the terms and conditions of this compromise.

8. *It has been further decided between the parties that in case of necessity, both the parties shall be free to present the copy of the above compromise before any authority or court if the same is required to witness the execution of the compromise or to settle any pending controversy between the parties.*
9. *The parties have gone through the contents and the same have been explained to the parties and after admitting the same as correct, have put their respective signatures.*
10. *That the parties undertake to abide by the terms and conditions set out in the agreement and not to dispute the same hereinafter in future.*

Vinod-Appellant/Accused – Sd/-

Billoo @ Billu-complainant – Sd/-

16.10.2018

*Sd/-
(Swarn Sandhir)
Mediator.”*

Learned State counsel has filed the custody certificate and as per this custody certificate, the appellant is not involved in any other case and he has already undergone the total sentence of 07 months and 06 days including remission and out of this period, the appellant remained in custody as under-trial, for a period of 05 months and 27 days.

In Sube Singh and another Vs. State of Haryana and another, 2013 (4) RCR (CrI.) 102, a Division Bench of this Court has held that even after conviction, if the parties have settled the dispute amicably and have decided to live in peace and harmony, this Court, in exercise of powers under Section 482 Cr.P.C, can compound the offence.

Considering the fact that the parties have decided to bury their

inter-se dispute and further decided to live in peace and also in view of the report of the Mediator dated 16.10.2018, present appeal is partly allowed. Judgment of conviction dated 10.12.2004 is upheld and sentence awarded to the appellant i.e. 04 years R.I. under Section 307 IPC read with Section 34 IPC along with a fine of Rs.2,000/- vide order of sentence dated 13.12.2004, is reduced to the period already undergone by the appellant.

Since sentence of the appellant has already been suspended, his bail/surety bonds shall stand discharged.

With the aforesaid modifications, this appeal stands disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

26.10.2018
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No