

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

Decided on: 11.07.2018

- 1. CRM No.31197 of 2016 in/and
CRA-S No.2903-SB of 2014 (O&M)**

Amrit Singh

....Applicant/Appellant

Versus

State of Punjab and another

....Respondents

- 2. CRM No.31144 of 2016 in/and
CRA-S No.2904-SB of 2014 (O&M)**

Subhash and others

....Applicants/Appellants

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Arvind Thakur, Advocate
for the applicants/appellants (in both the appeals)

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. Harshit Jain, Advocate
for respondent No.2 (in both the appeals)

ARVIND SINGH SANGWAN, J. (Oral)

**CRM No.31197 of 2016 in CRA-S No.2903-SB of 2014 and
CRM No.31144 of 2016 in CRA-S No.2904-SB of 2014**

Prayer in these applications is for early hearing of the main
appeals and for compounding of the case on the basis of the
compromise.

Heard.

Allowed as prayed for and the main appeals i.e. CRA-S Nos.2903-SB and 2904-SB of 2014 are taken up today for hearing.

CRA-S Nos.2903-SB and 2904-SB of 2014 (O&M)

Challenge in the aforesaid two appeals is to the judgment of conviction dated 09.07.2014, vide which the appellant(s) namely Amrit Singh, Subhash, Ishwar, Dinesh and Naresh were found guilty of offence punishable under Section 323 of the Indian Penal Code (in short 'IPC') while they were acquitted of the offence punishable under Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (in short 'the Act') and four other co-accused were acquitted as well as the order of sentence dated 09.07.2014, vide which the appellants have been sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.1,000/- each and in default of payment of fine to further undergo rigorous imprisonment for a period of 01 month. It was further directed that out of the amount of fine recovered from the appellants/accused, a sum of Rs.2,000/- each will be given to the complainant namely Mangal Nath and his mother – Taro Devi as compensation under Section 357(2) Cr.P.C.

Both the present appeals were filed in the year 2014 and thereafter, the sentence of the appellants was suspended by this Court vide order dated 21.07.2014.

Brief facts of the case are that on 05.06.2011 at about 09:30 pm, the complainant – Mangal Nath was going to attend his duty on tower after taking meals and when he came outside his house,

Subash, Ishwar and Amrit of village Andana, were installing kundi in his electric meter installed in front of his house (earlier also, they did so, due to which electric bill received by the complainant was in excess) the complainant stopped them from connecting kundi, upon which Amrit Singh gave an iron rod which hit him on his left knee. In the meanwhile, Mewa Ram came at the spot armed with danda and gave danda blow on his back and Subhash gave him fist blows. Thereafter, Amit Kumar and Hoshiar also came out of their house and proclaimed that the complainant be given more beatings. The complainant raised hue and cry, which attracted his mother – Taro Devi at the spot and when mother of the complainant was in process of rescuing his son i.e. the complainant, Ishwar gave soti blow on her back. Thereafter, Dinesh and Naresh also came out of their house and Dinesh gave soti blow to mother of the complainant which hit on her knee whereas Naresh also soti blow, which hit on the right elbow of Taro Devi. On raising alarms, Rattan Singh i.e. uncle of the complainant saved them from the clutches of the accused and all of them, thereafter, ran away from the spot with their respective weapons and the injured were got admitted in Civil Hospital, Moonak for their treatment. Thereafter, the complaint was filed by Mangal Nath.

In the preliminary evidence, the complainant himself appeared as CW1, Ram Dia, Clerk appeared as CW2, Dr. Anil Goyal appeared as CW3 and Taro Devi appeared as CW4. The complainant tendered into evidence, the photocopies of the bill dated 21.03.2011 (Mark A) and dated 20.05.2011 (Mark B) and closed the preliminary

evidence.

Thereafter, the trial Court summoned the accused/appellants for facing trial for offence punishable under Sections 323, 380 IPC and 3(1)(x) of the Act and they were charge-sheeted for offence punishable under Section 3(1)(x) of the Act and 323 IPC, to which they pleaded not guilty and claimed trial.

The prosecution examined Ramdia as PW1, HC Sadhu Singh as PW2, Taro Devi as PW3, Dr. Anil Goyal as PW4, Mangal Nath as PW5 and the complainant, thereafter, closed the evidence.

After conclusion of the evidence of the prosecution, the statement of appellants/accused were recorded under Section 313 Cr.P.C. and the entire incriminating evidence which the prosecution produced against them was put to them to tender explanation for the same. The appellant/accused denied the allegation of the prosecution and pleaded their innocence.

The accused also examined HC Ram Singh as DW1, Gopal Sharma as DW2, HC Sadhu Singh as DW3, Giani Ram as DW4, HC Gurmeet Singh as DW5 and thereafter closed their defence evidence.

The Court below, after hearing learned counsel for the parties and after appreciating the evidence on record, convicted and sentenced the appellants/accused under Section 323 IPC, however, acquitted them of the charge framed under Section 3 of the Act.

Feeling dissatisfied with the judgment of conviction and order of sentence dated 09.07.2014, the accused/appellants have preferred the present appeals, which was admitted on 15.07.2014 and

their sentence was suspended.

During the pendency of the appeals, the parties have compromised the matter and accordingly, vide order dated 29.11.2017, the parties were directed to get their statement recorded and the trial Court was also directed to submit its report. The parties have appeared before the Additional Sessions Judge, Sangrur, who after recoding the statement of the complainant – Mangal Nath as well as the appellants namely Amrit Singh, Subhash, Ishwar, Dinesh and Naresh, has recorded a finding that the compromise (Ex.PX) has been entered between the parties at their own free will and the compromise deed is executed voluntarily. The complainant – Mangal Nath has stated in his statement that he has no objection, if the accused persons are acquitted by this Court by compounding the offence and he has made the statement without any pressure, fear and coercion.

As per the report of the trial Court, it is apparent that the parties have entered into a legal and valid compromise, which is based on voluntarily declaration of the parties. The compromise deed (Ex.PX) is taken on record and as per the deposition of both the parties, it will be binding on all of them.

Counsel for the appellant(s) has submitted that since the conviction is under Section 323 IPC only, therefore, the offences are compoundable as per the provisions of Section 320 Cr.P.C. Counsel for the appellant(s) has relied upon the judgment ***“Ram Shanker and others vs State of Uttar Pradesh”***, 1982(3) SCC 388, wherein the Hon'ble Supreme Court, on the basis of the compromise arrived at

between the parties, has acquitted the accused persons, who were convicted under Section 325 read with Section 34 IPC. He has further relied upon the judgment passed by the Hon'ble Supreme Court ***“Dr. Arvind Barsaul etc. vs State of Madhya Pradesh and another”***, 2008(2) RCR (Criminal) 910, wherein on the basis of the compromise, the conviction of the accused under Section 498-A IPC was set-aside. Counsel for the appellant(s) has also relied upon the judgment of this Court vide order dated 25.02.2016, ***“Inderjit Singh @ Nikka vs State of Punjab and others”***, passed in CRM-M No.29347 of 2014, whereby this Court while relying upon ***Dr. Arvind Barsaul's case (supra)*** has compounded the offences and acquitted the accused persons of the charges.

Counsel appearing for respondent No.2 has also acknowledge the fact that the matter stands compromised between the parties.

This fact is also not disputed by counsel for the State in the light of the report submitted by the Additional Sessions Judge, Sangrur.

After hearing the counsel for the parties, I am of the opinion that since the parties, who are residents of the same village, have arrived at a settlement with an intent to give burial to their differences and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue, accordingly, both the present appeals are allowed, the impugned judgment of conviction and order of sentence dated 09.07.2014 is set-aside and the appellants namely Amrit Singh, Subhash, Ishwar, Dinesh and Naresh

are acquitted of the charges framed against them, subject to payment of costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Sangrur.

Disposed of.

11.07.2018
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No