

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

**CRR-4393-2015 (O&M)
Date of decision: 09.02.2018**

Ajit Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ravi Malhotra, Advocate
for the petitioners.

Mr. Jasdeep Singh Walia, Sr. DAG, Punjab.

Ms. Surinder Kaur, Advocate
for respondent No.2-complainant.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for setting aside the judgment of conviction and order of sentence of even date i.e. 23.08.2014 passed by the trial Court, convicting the petitioners under Sections 323/325 read with Section 149 of the Indian Penal Code (for short 'IPC') and sentencing them to undergo two years R.I. and to pay a fine of ₹2,000/- and in default of payment of fine, to further undergo imprisonment for a period of one year as well as for setting aside the judgment dated 28.10.2015 passed by the lower appellate Court, dismissing their appeal, with a modification that since the charges were framed under Sections 323, 325 read with Section 34 IPC,

conviction and sentence was modified to the aforesaid Sections, by deleting Section 149 IPC.

Vide order dated 18.11.2015, on submissions made on behalf of the petitioners that the matter has been compromised between the parties, the sentence of the petitioners was suspended on furnishing their bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Jalandhar.

During pendency of the present petition, the matter was referred to the Mediation and Conciliation Centre of this Court, where both the parties i.e. accused-petitioners namely Ajit Singh son of Fazla Ram and Avtar Singh son of Ajit Singh as well as complainant-respondent No.2 Mahinder Singh son of Fajla Ram have appeared and the Mediator has recorded the statements of the parties. Respondent No.2 Mahinder Singh has stated that he is complainant in FIR No.249 dated 21.12.2009 under Sections 323, 325, 148, 149 IPC, registered at Police Station Shahkot, District Jalandhar and has entered into a compromise dated 08.11.2015 (Annexure P-1) with the petitioners on his own free will, without any undue influence, threat and coercion. Similar statement was made by the petitioners. Both the parties were duly identified by their respective counsels before the Mediator.

Learned State counsel has filed custody certificates dated 08.02.2018 of the petitioners and as per these custody certificates, both the petitioners Ajit Singh and Avtar Singh have undergone 25 days of actual sentence and they are not involved in any other case.

Counsel for the petitioners restricts his arguments limited to the extent that the sentence awarded by the trial Court to the petitioners, as

upheld by the lower appellate Court, be reduced to the period already undergone by them, in view of the compromise. It is further submitted that petitioner No.1 Ajit Singh and respondent No.2-complainant are real brothers and the compromise has been effected with their own free will and in view of the fact that they are residing in the same village and it will be in the interest of both the parties to maintain peace and harmony between them.

Learned State counsel as well as learned counsel appearing for the complainant-respondent No.2 have no objection to the prayer made by counsel for the petitioners.

After hearing learned counsel for the parties, considering the fact that parties have entered into a legal and valid compromise dated 08.11.2015 (Annexure P-1) and have appeared before the Mediation and Conciliation Centre of this Court and acknowledged the compromise by making their respective statements and the Mediator has submitted a report that the parties have entered into a valid compromise and also in view of the fact that both the petitioners are facing the agony of protracted trial since registration of the FIR in the year 2009 and as per the custody certificates, subsequently they are not involved in any other case; they have not misused the concession of bail during the period, when they were facing the trial as well as before the lower appellate Court. It is also not disputed that after the sentence of the petitioners was suspended by this Court vide order dated 18.11.2015, again there was no complaint from the side of the complainant or any other person about their behaviour.

In view of the above, this petition is partly allowed and sentence awarded to the petitioners vide impugned judgment of conviction dated

23.08.2014 passed by the trial Court and vide order of sentence of even date i.e. 23.08.2014, sentencing them to undergo 02 years R.I. with a fine of Rs.2000/-, is reduced to the period already undergone by them. Since the petitioners are on bail, their bail/surety bonds shall stand discharged.

With the aforesaid modifications, present petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

09.02.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No