

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

**CRR No.4085 of 2017 (O&M)
Date of decision: August 21, 2018**

Baldhir Singh

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Kamaldip Singh Sidhu, Advocate
for the petitioner.

Mr. Raj Kumar Makkad, DAG, Haryana.

Mr. L.S. Bhullar, Advocate
for respondents No.2 and 3.

RAJ SHEKHAR ATTRI, J.

This is a case where two brothers i.e. petitioner-Baldhir Singh and complainant-Jai Singh have a fight or a trivial issue.

The dispute between them was with regard to selling of few trees by Baldhir Singh on the joint land.

On 25.11.2008, complainant-Jai Singh, accompanied by his son Surender @ Rinku, reached in the field and found that there trees were being cut from joint land and lifted. Both of them objected and asked the contractor not to lift the wood then Vikas son of Baldhir Singh, became furious and gave a blow with the rod on his right leg and on the finger of right hand of the complainant, who also sustained injuries near the right eye. Petitioner-Baldhir Singh had also given danda blow on the mouth of Surender @ Rinku.

In view of that, Jai Singh and Surender @ Rinku were admitted in the hospital. Efforts for compromise were going on at that stage but could not mature. Ultimately, FIR was registered on 02.12.2008 (after eight days) on the statement of Jai Singh.

After investigation, challan was submitted. After conclusion of the trial, petitioner-Balldhir Singh was convicted and sentenced by the learned Judicial Magistrate Ist Class, Kurukshetra as under:-

Name	Sentenced to undergo rigorous imprisonment	Section	Fine	In default of payment of fine to further undergo SI for
Balldhir Singh	06 months	323 of IPC	-	-
	1 ½ years	325 of IPC	Rs.3,000/-	02 months

However, Vikas found to be juvenile and he was tried separately before the Juvenile Justice Board. The petitioner preferred *Criminal Appeal No.31 of 2015* before the learned Additional Sessions Judge, Kurukshetra which was dismissed and the impugned judgment of conviction and order of sentence passed by the learned trial court was upheld vide impugned order dated 05.08.2017

Assailing the orders of the courts below, petitioner-Balldhir Singh preferred the instant *Criminal Revision No.4085-2017*.

During the pendency of this petition, a compromise has been effected through *CRM-36045-2017* has been filed for permission to compound with the offences under Sections 323 and 325 IPC.

Offence under Section 323 IPC is compoundable under part (i) and Section 325 IPC is compoundable under part (ii) of Section 320 IPC.

However, sub-Section (6) of Section 320 IPC provides that *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.* However, sub-Section (8) of Section 320 provides that *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.*

Petitioner and victim are real brothers. They have buried the hatchet. The amicable settlement is for the welfare and benefit of both the families. This court is of the view that for the betterment of the brotherhood, they be allowed to compound with the offence. Consequently, *CRM-36045 of 2017* is allowed and the petitioner is allowed to compound with the offences.

This court vide order dated 19th March, 2018, has referred the matter to the trial court to verify as to whether the compromise is genuine and not the result of any pressure or coercion in any manner. The trial court after recording the statement of the parties, has made following observations:-

- 1. The compromise arrived at between the parties is genuine, voluntary and without any coercion or undue influence.*
- 2. There are no pending criminal cases between the parties, as per statement of the parties.*

Consequently, the compromise entered between the parties is accepted and the judgment of conviction dated 15.01.2015 and order of sentence dated 17.01.2015 passed by the learned Judicial Magistrate Ist

Class, Kurukshetra in *Criminal Case No.CHI/2320 of 2013* as well as the *Criminal Appeal No.31 of 2015* passed by the learned Additional Sessions Judge, Kurukshetra are hereby *set aside* and reversed. Thus, petitioner-Baldhir Singh stands acquitted of the charges framed against him.

The amount of fine deposited by him be refunded to him against proper receipt and identification.

(RAJ SHEKHAR ATTRI)
JUDGE

August 21, 2018
m. sharma

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