

HON'BLE SRI JUSTICE K. LAKSHMAN

I.A. Nos.3 AND 4 OF 2019

IN/AND

CRIMINAL APPEAL No.1090 OF 2008

COMMON JUDGMENT:

The Criminal Appeal is filed by Accused No.1 in S.C. No.581 of 2007 on the file of IV Additional Metropolitan Sessions Judge, Hyderabad under Section 374 (2) of the Code of Criminal Procedure, 1973, questioning the conviction and sentences imposed upon him by judgment, dated 02.09.2008.

2. Vide the aforesaid judgment, the appellant - accused No.1 was found guilty of the charges under Sections 323 and 324 IPC and accordingly he was convicted and sentenced to undergo simple imprisonment for three (03) months for the offence under Section 323 IPC and he was also sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.1,000/- and in default to undergo simple imprisonment for another three months for the offence under Section 324 IPC. Both the sentences of imprisonment were ordered to be run concurrently. However, he was found not guilty for the charge under Section 307 IPC and Section 25 (1)(a) of Arms Act.

3. During pendency of the aforesaid appeal, petitioners, who are *de facto* complainants and victims, filed I.A. No.2 of 2019 to implead them as respondent Nos.3 to 5 on the ground that they entered into compromise with the appellant - accused No.1 and, accordingly, this Court allowed the said petition impleading them as respondent Nos.3 to 5 in the aforesaid appeal.

4. Along with I.A. No.2 of 2019, they also filed I.A. Nos.3 and 4 of 2019. I.A. No.3 of 2019 is filed to grant permission to compound the

offence with respondent No.1 - appellant - accused No.1, while I.A. No.4 of 2019 to allow the above appeal by setting aside the order, dated 02.09.2008 in S.C. No.581 of 2007, passed by the learned IV Additional Metropolitan Sessions Judge, Hyderabad, in terms of compromise entered into between them and respondent No.1.

5. The learned Additional Public Prosecutor representing respondent No.1 reported no objection for allowing the petitions.

6. Perused the affidavits filed by the petitioners - respondent Nos.2 to 4 and the joint memo signed by both the parties filed along with I.A. No.4 of 2019. The contents thereof would disclose that the petitioners - respondent Nos.3 to 5 as well as the appellant - accused No.1 entered into compromise with the intervention of elders and well-wishers and accordingly, they prayed to allow the Criminal Appeal by setting aside the conviction and sentences recorded by the trial Court, in terms of the compromise.

7. Both parties as well as learned counsel for the petitioners and the learned Additional Public Prosecutor are present, and the parties are identified by their counsel, Mr. S. Mahender Raju. The parties also produced self-attested Photostat copies of their "Aadhaar Cards" in proof of their identity and the same are verified with the originals. The petitioners - respondent Nos.3 to 5 affirms the contents of affidavits filed in support of petition in I.A. No.4 of 2019 as well as the Joint Memo to be true, correct and without any coercion or duress and accordingly requested to allow the Criminal Appeal by setting aside the judgment, dated 02.09.2008 passed in S.C. No.581 of 2007.

8. Since the petitioners - respondent Nos.3 to 5, who are *de facto* complainants and victims, affirmed the contents of affidavits filed in support of I.A. No.4 of 2019 as well as the joint memo, compromise is recorded in terms thereof, granting permission to compound the offence as prayed therein. The joint memo filed by the parties shall form part of the record.

9. In these facts and circumstances of the case, I.A. Nos.3 and 4 of 2019 are allowed and consequently, the Criminal Appeal No.1090 of 2008 is also allowed setting aside the conviction and sentence of imprisonment imposed upon appellant - Accused No.1 by judgment, dated 02.09.2008 in S.C. No.581 of 2007 on the file of the IV Additional Metropolitan Sessions Judge, Hyderabad, for the offences under Sections 323 and 324 IPC. Accordingly, the appellant - accused No.1 is acquitted of the offences for which he was charged. The fine amount, if any, paid by him shall be refunded to him. The bail bonds of the appellant shall stand cancelled.

As a sequel, miscellaneous applications, if any, pending in the appeal shall stand closed.

15th November, 2019
Mgr

JUSTICE K. LAKSHMAN