

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

CRM-M No.43169 of 2018 (O&M)

Date of decision: 25.01.2019

Nafe Singh

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vikrant Hooda, Advocate
for the petitioner.

Mr. Arun Kumar, AAG, Haryana.

Ms. Bhawna Thakur, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing of FIR No.440 dated 18.11.2010 registered under Sections 324, 452, 506 of the Indian Penal Code (in short 'IPC') (Section 326 IPC added later) at Police Station City Bahadurgarh and for setting-aside the judgment of conviction dated 10.01.2017 vide which the petitioner was held guilty for offence punishable under Sections 326, 452 and 506 IPC and the order of sentence dated 17.01.2017, vide which the petitioner was sentenced to undergo rigorous imprisonment for a period of 01 year and 06 months and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo simple imprisonment for a period of 01 month, on the basis of the compromise dated 21.09.2018 (Annexure P3), which has been arrived at between the parties during the pendency of an appeal

filed by the petitioner, which is now pending before the Additional Sessions Judge, Jhajjar.

Brief facts of the case are that on 18.11.2010, a medical ruqa through ward servant Braham Shakti Sanjivani Hospital, Bahadurgarh was received in the Police Station to the effect that the injured Naresh son of Attar Singh had been admitted in the Hospital for medical treatment of the injuries suffered in an assault case. Upon this, HC Ramesh Kumar and EHC Ram Kumar reached Braham Shakti Sanjivani Hospital, Bahadurgarh and obtained MLR of the injured Naresh. The opinion of doctor concerned regarding the fitness of injured was obtained and thereafter, the statement of the complainant was recorded to the effect that on 18.11.2010 at about 9:00 AM, he was sitting in the Verandah of his house and reading the newspaper. In the meantime, the accused carrying an axe (farsa) entered into his house and started abusing him. When he objected to the aforesaid act and conduct of the accused, the accused attacked on the right leg of the complainant with the aid of axe (farsa) carried by him. On an alarm raised by the complainant, his brother Narender came at the spot to rescue him from the clutches of the accused. While leaving the spot, the accused threatened to kill the complainant in near future on finding an opportunity. Thereafter, the complainant was taken to Hospital by Sandeep for medical treatment of the injuries suffered by him in the said assault. On the basis of the aforesaid facts, a formal FIR under Sections 324, 452 and 506 IPC was registered against the accused. The investigation was pressed into action by HC Ramesh. On 13.12.2010, the opinion of the doctor concerned regarding the injuries suffered by

injured Naresh was obtained and accordingly, the offence punishable under Section 326 IPC was added in the present case. On 12.07.2011, the accused was formally arrested. The confessional statement of the accused was recorded and the axe (farsa) used in the offence was also recovered. On 23.07.2011, the opinion of the doctor concerned regarding the axe (farsa) was obtained. The site plan was prepared and statement of witnesses were recorded. After completion of the investigation, challan under Section 173 of the Code of Criminal Procedure was presented before the trial Court.

On presentation of the challan, charge under Sections 324, 326, 452 and 506 IPC was framed against the accused vide order dated 05.10.2011, to which he did not plead guilty and claimed trial.

The prosecution examined ASI Ramphal as PW1, Naresh Kumar (complainant) as PW2, Narender an eye-witness as PW3, Dr. Sanjay Singh, Orthopedic Surgeon Bahadurgarh as PW4, ASI Ramesh Kumar, the Investigating Officer as PW5, Dr. Hari Om as PW6, SI Jagdish Chander as PW7.

After conclusion of the evidence of the prosecution, the statement of the accused was recorded under Section 313 Cr.P.C., however, no defence evidence was led by the accused/petitioner.

The trial Court, after hearing learned counsel for the parties and after appreciating the evidence on record, convicted and sentenced the appellant/accused under Sections 326, 452 and 506 IPC.

The petitioner as well as respondent No.2/complainant have entered into a compromise later on and vide order dated

01.10.2018, the parties were directed to appear before the Illaqa Magistrate for getting their statements recorded with regard to the compromise.

The trial Court has recorded the statement of the complainant – Naresh Kumar, who has stated that he has mutually compromised the matter with the accused voluntarily and without any threat or pressure and he has no objection if, the proceedings against Nafe Singh is quashed. Similar statement has been made by the petitioner. The trial Court has also recorded the statement of HC Monu in which, he has stated that the only victim in the case is Naresh Kumar and there is no other victim in the case.

The trial Court has recorded its satisfaction that the petitioner is not involved in any other case and the compromise is genuine, voluntarily without any pressure or coercion and the petitioner has never been declared as proclaimed offender in any proceedings. It is also stated that there is only one victim and one accused in the present case, thus, the trial Court has recorded its satisfaction that the compromise arrived at between the parties is a genuine compromise and is in the larger interest of the parties to maintain peace and harmony.

In ***“Sube Singh and another vs State of Haryana and another”***, 2013 (4) RCR (Criminal) 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 trial Court dated 20.11.2018, the present petition is partly allowed by upholding the judgment of conviction and the sentence awarded to the petitioners is reduced to the period already undergone by him, however, the payment of fine of Rs.2,000/- is upheld and the petitioner is granted 01 month time to deposit the same with the Illaqa Magistrate.

With the aforesaid observations, this petition is disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

25.01.2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No