

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

CRA-S-1256-SB-2004 (O&M)

Reserved on 07.12.2022

Date of Decision: 09.12.2022

Parminder Singh and another	Versus	...Appellants
State of Punjab		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Thythem Bajaj, Advocate for
Mr. Sant Pal Singh Sidhu, Advocate
for the appellants.

Mr. Vipin Pal Yadav, Addl. A.G. Punjab.

N.S.SHEKHAWAT, J.

The present appeal is directed against the judgment of conviction and order of sentence dated 31.05.2004 passed by the Court of learned Additional Sessions Judge, Fast Track Court, Ferozepur, whereby, they stand convicted under Sections 326, 324 and 34 IPC and sentenced, as mentioned below:-

Parminder Singh	U/s 326 IPC	Rigorous imprisonment for two years and to pay a fine of Rs. 1,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for nine months.
	U/s 324 IPC	Rigorous imprisonment for one year and to pay a fine of Rs. 300/-. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Rajesh Kumar	U/s 326/34 IPC	Rigorous imprisonment for two years and to pay a fine of Rs. 1,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for nine months.

U/s 324 IPC	Rigorous imprisonment for one year and to pay a fine of Rs. 300/-. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
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The substantive sentences were ordered to run concurrently.

The FIR in the instant case was got registered by injured Amarjit Singh, who was admitted in Amar Hospital, Ferozepur. On getting the medical ruka regarding the admission of Amarjit Singh in the hospital, ASI Dogar Singh reached the hospital and after getting an opinion regarding the fitness of the injured, he recorded the statement of injured/complainant Amarjit Singh. The complainant stated that at about 08.00 p.m. on 12.05.2003, his father Chamba Singh and uncle Santokh Singh were sitting by his side in the PCO and were talking to each other. At that time, Parminder Singh @ Bhau armed with a Kapa and another unidentified person who was aged about 20/25 years, whitish colour, height about 5/6, to whom, he could identify, if produced before him, suddenly entered the PCO of the complainant. Parminder Singh @ Bhau accused gave a Kapa blow on the left shoulder of the complainant using its sharp side. The complainant stood up from his chair, unidentified person took out a knife from the pocket of his pants and tried to give a blow with the knife in his abdomen but the complainant caught hold of the said

knife, using his right hand grappled with him. In the course of grappling, he received scratches on his abdomen and on right shoulder with the knife. The said person snatched the knife from the complainant and caused injuries in between little finger and its adjoining fingers. Parminder Singh accused gave another Kapa blow, which landed on the mouth and on right side of the neck of the complainant. The complainant, his father and uncle raised hue and cry and on this, both the accused ran away from the spot with their respective weapons.

The complainant went to the hospital and was provided treatment by the doctor. The motive behind the occurrence was that Parminder Singh accused was to recover some money from a person Bittu, who had not returned the same. The accused asked the complainant to intervene and to get his amount recovered from Bittu. The accused also suspected that the complainant had instigated Bittu not to make the payments and the injuries were caused by the accused with an intention to kill the complainant. Initially, after the preliminary investigation, the case under Sections 324, 452, 506 and 34 IPC was registered against the accused. The statements of the witnesses were recorded and both the accused were arrested on finding sufficient evidence against them. The medical opinion was sought with regard to the injuries suffered by the complainant/injured and the one injury on the person of the complainant was declared

dangerous to life and the offence was converted to case under Sections 307, 326, 324, 506, 452 and 34 IPC.

After completion of investigation, the challan was presented against the accused before the Court of learned Illaqua Magistrate. Since the case was triable by the Court of Sessions, it was committed by the learned Illaqua Magistrate and the charge under Sections 307, 324, 452 and 34 IPC was ordered to be framed against the appellants, to which, they pleaded not guilty and claimed trial.

To prove the charge, the prosecution examined 09 witness and closed the evidence.

The statements of the appellants were recorded under Sections 313 Cr.P.C., in which, they pleaded not guilty. However, the accused opted not to lead any defence evidence.

After leading the trial, both the appellants were admittedly convicted under Sections 326, 324 and 34 IPC and the learned trial Court acquitted the appellants of the charge under Sections 307 and 452 IPC.

Challenging the impugned judgment of conviction and order of sentence, the appellants preferred the instant appeal before this Court and the sentence imposed upon them was ordered to be suspended by this Court during the pendency of the present appeal.

During the course of hearing, on 05.08.2016, the complainant appeared in person before this Court and also placed on

record a duly sworn affidavit on the file to the effect that he had compromised the matter with the appellants herein. At that stage, learned counsel appearing for the appellants sought time to assist the Court as to whether this Court can permit the compounding of the offence under Sections 324 and 326 IPC, which was not compoundable in view of Section 320 Cr.P.C. Again, on 06.12.2017, the counsel for the parties agreed that the matter may be referred to the Mediation and Conciliation Centre of this Court as the parties had amicably resolved the dispute.

In pursuance of the said order, both the parties appeared before the Mediation and Conciliation Centre of this Court and with the intervention of the Mediator, a settlement/agreement dated 10.01.2018 was prepared and was duly signed by both the appellants, the complainant/injured and their respective counsel. The said settlement/agreement dated 10.01.2018 is already on the file. As per the said compromise, both the parties with the assistance of the Mediator voluntarily and with their own free will had agreed to settle the dispute. They stated that both the parties knew each other since their childhood and live in the vicinity to each other. Still further, the occurrence had taken place on 12.05.2003 and since then there has been no dispute of any kind between them. Respondents/complainant stated that he had no objection in case the criminal appeal filed by the

appellants is allowed by this Court and they are ordered to be acquitted on the basis of compromise between the parties.

This Court considered the permissibility of compounding of the offence under Section 326 IPC, on the basis of compromise, in the case of **Balwan Singh and others Vs. State of Haryana 2020(3) R.C.R. (Criminal) 39**, wherein, this Court allowed the parties to compound the offences under Sections 324, 326, 452 and 34 IPC while exercising its revisional jurisdiction and the impugned judgment and order passed by the Court below were set aside and the petitioners were ordered to be acquitted of the charges framed against them.

Similar view has been taken by this Court in the matter of **Pawan Kumar Vs. State of Haryana and another 2016(2) R.C.R. (Criminal) 176** and in the said judgment it was held as follows:-

*“Similarly, in the case of **Bhagel Singh Vs. Stte of Punjab 2014(3) RCR (Criminal) 578** where the accused was convicted under Section 326 IPC and was convicted and sentenced for two years, the parties entered into compromise during the pendency of the appeal. This Court while relying upon the judgment of **Lal Chand Vs. State of Haryana, 2009 (5) RCR (Criminal) 838** and **Chhota Singh Vs. State of Punjab 1997 (2) RCR (Criminal) 392** allowed the compounding of offence in respect of offence under Section 326 I.P.C. at the appellate stage with the observation that it will be a starting point in maintaining peace between the parties, such offence can be compounded”.*

The learned counsel for the appellants has submitted that the FIR in the instant case pertained to the year 2003 and except incident in question, the appellants are not involved in any other case and even subsequent to this incident, they have not repeated any such offence. Even, their sentence was suspended long ago and they had never misused the said concession. Even the parties know each other since the childhood and also live the neighbourhood.

Consequently, it would be in the interest of justice as well as to maintain peace and harmony of their brotherhood that they should be allowed to compound the offences. Even, the said factual position has not been disputed by the learned counsel appearing for the State. It is also not disputed that the matter has been amicably settled between the parties before the Mediation and Conciliation Centre of this Court and the compromise deed is already on the record.

In view of the above factual position and the settled law, the appeal is accepted and the impugned judgment of conviction and order of sentence dated 31.05.2004 passed by the Court of learned Additional Sessions Judge, Fast Track Court, Ferozepur are set aside.

The offences, on the basis of compromise, are compounded and as a consequence of the same, the appellants are ordered to be acquitted of the charge framed against them.

The appeal stands disposed of.

All pending applications, if any, are disposed of, accordingly.

The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

Records of the Court below be sent back.

09.12.2022
amit rana

(N.S.SHEKHAWAT)
JUDGE

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