

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-1821-SB-2013 (O&M)
Date of decision: 15.11.2022

Joginder Singh and others

... Appellants

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vipul Aggarwal, Advocate
for the appellants.

Mr. Shubham Kaushik, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this appeal is for setting aside the judgment of conviction dated 30.04.2013, vide which the appellants were held guilty and were convicted for the offences punishable under Sections 307, 323 read with Section 34 of the Indian Penal Code (for short ‘IPC’) and the order of sentence of same date i.e. 30.04.2013, vide which the appellants were sentenced to undergo following sentence: -

Appellant No.1 Joginder Singh		
1.	Under Section 307 IPC	To undergo rigorous imprisonment for a period of five years and further burdened with fine of Rs.3000/-, in default of payment of fine to further undergo rigorous imprisonment for six months.
2.	Under Section 323 IPC	To undergo rigorous imprisonment for a period of six years and further burdened with fine of Rs.500/-, in default of payment of fine to further undergo rigorous

		imprisonment for 15 days.
3.	Under Section 323/34 IPC	To undergo rigorous imprisonment for a period of six months and further burdened with fine of Rs.500/-, in default of payment of fine to further undergo rigorous imprisonment for 15 days.
4.	Under Section 323/34 IPC	To undergo rigorous imprisonment for a period of six months and further burdened with fine of Rs.500/-, in default of payment of fine to further undergo rigorous imprisonment for 15 days.
Appellant No.2 Kulwinder Singh @ Sunny		
1.	Under Section 307/34 IPC	To undergo rigorous imprisonment for a period of five years and further burdened with fine of Rs.3000/-, in default of payment of fine to further undergo rigorous imprisonment for six months.
2.	Under Section 323 IPC	To undergo rigorous imprisonment for a period of six years and further burdened with fine of Rs.500/-, in default of payment of fine to further undergo rigorous imprisonment for 15 days.
3.	Under Section 323/34 IPC	To undergo rigorous imprisonment for a period of six months and further burdened with fine of Rs.500/-, in default of payment of fine to further undergo rigorous imprisonment for 15 days.
4.	Under Section 323/34 IPC	To undergo rigorous imprisonment for a period of six months and further burdened with fine of Rs.500/-, in default of payment of fine to further undergo rigorous imprisonment for 15 days.
Appellant No.3 Amrik Singh @ Rinku		
1.	Under Section 307/34 IPC	To undergo rigorous imprisonment for a period of five years and further burdened with fine of Rs.3000/-, in default of payment of fine to further undergo rigorous imprisonment for six months.
2.	Under Section 323 IPC	To undergo rigorous imprisonment for a period of six years and further burdened with fine of Rs.500/-, in default of payment of fine to further undergo rigorous imprisonment for 15 days.
3.	Under Section 323/34 IPC	To undergo rigorous imprisonment for a period of six months and further burdened with fine of Rs.500/-, in default of payment of fine to further undergo rigorous imprisonment for 15 days.
4.	Under Section 323/34 IPC	To undergo rigorous imprisonment for a period of six months and further burdened with fine of Rs.500/-, in default of payment of fine to further undergo rigorous imprisonment for 15 days.

Brief facts of the case are that on a complaint given by Lakhwinder Singh that on 05.04.2011, the appellants-accused came with common intention and caused injuries to the complainant, resulting into grievous and simple hurt,

FIR No.63 dated 20.04.2011 under Sections 307, 325, 323, 34 IPC was registered at Police Station Sultanwind, District Amritsar. Challan was presented and during the trial, prosecution examined as many as 12 prosecution witnesses including the doctors and the witnesses and thereafter, the appellants were granted permission to lead defence evidence. In defence, the appellants examined two witnesses. Thereafter, the trial Court, vide impugned judgment of conviction dated 30.04.2013 convicted the appellants for the offences punishable under Sections 307, 323, 34 IPC and vide order of sentence of same date i.e. 30.04.2013, sentenced them to undergo imprisonment, as noticed above.

Learned counsel for the appellants, at the very outset, submits that as per custody certificates dated 14.11.2022 filed in the Court today, out of total 05 years of R.I., appellant No.1 Joginder Singh has undergone 03 years, 04 months and 14 days of total sentence, appellant No.2 Kulwinder Singh @ Sunny has undergone 01 year, 05 months and 12 days of total sentence and appellant No.2 Amrik Singh @ Rinku has undergone 01 year, 06 months and 11 days of total sentence. It is further submitted that none of the appellants is involved in any other case and even after suspension of their sentence in the year 2014, they are not involved in any case.

Learned counsel has referred to the compromise dated 15.01.2016 (Annexure P-14) filed along with CRM-21971, 21972 & 21973-2016, vide which the appellants have entered into a compromise with victim Lakhwinder Singh son of Piyara Singh and eye-witness Heera Singh. In this compromise, it is stated that now a good sense has prevailed upon both the parties, as they are

residents of the same village and due to the intervention and efforts of the respectables of the locality, in order maintain peace and harmony, both the parties have decided to compromise the matter and have amicably resolved the dispute and the complainant side do not want to proceed further with prosecution of the appellants. The compromise (Annexure P-14) is supported by an affidavit of victim Lakhwinder Singh (Annexure P-15) and affidavit of Heera Singh, eyewitness. Copies of the original compromise as well as affidavits in vernacular are also attached.

Learned counsel has relied upon a judgment passed by the Division Bench of this Court in **Sube Singh and another Vs. State of Haryana and another, 2013 (4) RCR (CrI.) 102**, wherein it is 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. It is submitted that since a valid compromise is effected between the parties, which is duly supported by affidavits of the victim as well as eyewitness, in order to maintain peace and harmony in the village, which the appellants are maintaining, as the compromise took place about 06 years ago and till date, there is no complaint from the complainant side that they have violated the terms and conditions of the compromise or have extended any thereat, the sentence awarded to the appellants may be reduced to the period already undergone by them.

Learned State counsel has not disputed the factum of compromise arrived at between the parties. It is also not disputed that after passing of the impugned judgment of conviction, the compromise was effected between the

parties and the appellants have either misused the same in any manner or extended any threat to the complainant side.

After hearing learned counsel for the parties and considering the fact that the parties have decided to bury their inter-se dispute and further decided to live in peace, present appeal is partly allowed. Sentence awarded to the appellants, as noticed above, vide judgment of conviction and order of sentence dated 30.04.2013, is modified to the extent that sentence awarded by the trial Court is reduced to the period already undergone by the appellants. The imposition of fine is also waived off.

Since sentence of the appellants stands suspended vide order dated 21.04.2014, their bail/surety bonds shall stand discharged.

[ARVIND SINGH SANGWAN]
JUDGE

15.11.2022
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No