

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3307-2013 (O&M)
Date of Decision: 06.12.2022

Avtar Mohammad and anr.

... Petitioners

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr Nakul Sharma, Advocate,
for the applicant-petitioners.

Ms. Ramta Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

On the oral request of the learned counsel for the applicant-petitioners, the applications alongwith main case is taken up for hearing today itself.

CRM-855-2020

The application for placing on record a compromise dated 29.10.2019 (Annexure P-1) is allowed as prayed for. The same is taken on record.

CRM-858-2020

This is an application for impleading Jaswant Singh @ Sant Singh-complainant as respondent No.2 in the array of the parties.

For the reasons mentioned in the application, the same is allowed. Applicant-complainant Jawant Singh @ Sant Singh is impleaded as respondent No.2 in the array of the parties. The Registry is directed to do the needful.

CRR-3307-2013 (O & M)

The present revision petition has been filed against the judgment dated 09.10.2013 passed by the Additional Sessions Judge, Fatehgarh Sahib,

vide which the appeal preferred by the petitioners against the judgment of conviction and order of sentence dated 20.04.2013 passed by the Judicial Magistrate Ist Class, Amloh in FIR No.102 dated 30.12.2005 under Sections 323, 325 read with Section 34 IPC registered at Police Station Amloh, convicting the appellants under Sections 323, 325 and 34 IPC, has been dismissed.

2. The prosecution case in brief is that on 18.09.2005 at about 11.00 PM when the injured-complainant Jaswant Singh came out of a shop of Doctor in his village, accused-Avtar Mohammad @ Tehni (petitioner No.1 herein) in furtherance of common intention of his co-accused Major Singh, Billu and Chhota Singh (petitioner No.2 herein) caused grievous hurt on his (complainant's) person and thus committed an offence punishable under Sections 323, 325 read with Section 34 IPC. So, the present case was registered against the accused. Investigation was initiated, site plan was prepared and after completion of investigation challan was presented in the Court.

3. *A prima facie* case was found to have been made out against all the accused persons., they were charge-sheeted accordingly.

4. In order to prove its case, the prosecution examined complainant-Jawant Singh as PW-1, Surjit Singh as PW-2, Retd. ASI Tara Singh as PW-3, Deepak Kataria as PW-4, Dr. K.K. Aggarwal as PW-5, Nirmal Singh as PW-6, Veena Rani as PW-7, Dr. Jagdish Singh as PW-8, Dr. Jaswant Singh as PW-9, Darshan Kumar Verma as PW-10. Thereafter, the evidence of the prosecution was closed by order.

5. The accused were examined under Section 313 Cr.P.C. by putting the entire incriminating circumstances/evidence appearing against them which they denied being incorrect and pleaded that they were falsely implicated. The accused examined no witness. They, however, tendered a certified copy of challan form under Section 173 Cr.P.C. as Ex. D1 and closed their defence evidence.

6. Based on the evidence led and the record exhibited, the petitioners were convicted and sentenced by the Judicial Magistrate Ist Class, Amloh as under:-

Name of convict	Offences U/s	Sentence awarded	Fine imposed	In default of payment of fine
Avtar Mohammad	323 IPC read with Section 34 IPC	RI for 1 year		
	325 IPC read with Section 34 IPC	RI for 1 year	Rs.1000/-	RI for 01 month
Chhota Singh @ Billu	323 IPC read with Section 34 IPC	RI for 1 year		
	325 IPC read with Section 34 IPC	RI for 1 year	Rs.1000/-	RI for 01 month

7. Pursuant thereto, the petitioners preferred an appeal before the Court of learned Additional Sessions Judge, Fatehgarh Sahib, which came to be dismissed on 09.10.2013.

8. After the appeal had been dismissed, the present revision petition under Section 401 Cr.P.C. has been preferred by the petitioners before this Court.

9. During the pendency of the present petition, a compromise dated 29.10.2019 (Annexure P-1) was effected between the petitioners and respondent No.2-complainant.

10. In terms of Section 320(2) Cr.P.C., the offence under Section 325 IPC can be compounded with the permission of the Court by the person to whom hurt is caused. In the present case, the complainant has effected a settlement and the same is on record as Annexure P-1. He has appeared in Court today and has endorsed the said settlement as well.

11. A perusal of Section 320(6) Cr.P.C. would show that the High Court or the Court of Session acting in the exercise of its power of revision under Section 401 Cr.P.C. may allow any person to compound an offence which such person is competent to compound under this Section. Section 320(8) Cr.P.C. states that the effect of the composition of an offence is that the accused is to be acquitted. A combined reading of Section 320(2) Cr.P.C., Section 320(6) Cr.P.C. and Section 320(8) Cr.P.C. leave no doubt that an offence under Section 325 IPC can be compounded at the instance of the person to whom hurt is caused, with the permission of the Court at the revisional stage and the effect of such composition is that the accused is to be acquitted. The said proposition of law has been set down in '**P. Ramaswamy Vs. State (U.T.) of Andaman and Nicobar Islands, 2013(3) RCR (Criminal) 760**', '**Ramesh Chander Vs. State of Haryana and another, 2007(1) RCR (Criminal) 245**' and **Inderjit Singh Basarke Versus State of Punjab and another, in CRR-1062-2019, decided on 07.03.2022**.

12. In view of the afore-mentioned discussion, the settlement effected between the parties and the provisions of law as enumerated

hereinabove, the present petition is allowed. The judgment dated dated 09.10.2013 passed by the learned Additional Sessions Judge, Fatehgarh Sahib, vide which the appeal preferred by the petitioners against the judgment of conviction and order of sentence dated 20.04.2013 passed by the Judicial Magistrate Ist Class, Amloh in FIR No.102 dated 30.12.2005 under Sections 323, 325 read with Section 34 IPC registered at Police Station Amloh, are hereby set aside and the petitioners are acquitted of the charges framed against them.

CRM-44666-2013

Since the revision petition has been decided, no order needs to be passed in this application (CRM-44666-2013) for suspension of sentence of the petitioner.

(JASJIT SINGH BEDI)
JUDGE

06.12.2022
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No