

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 971 of 2019

Swarup @ Sarup Mondal @ Babu @ Swarup Biswas

vs.

The State of West Bengal & Anr.

For the petitioner	:	Mr. Sandipan Ganguly, Mr. Atis Kumar Biswas, Mr. Amit Singh, Mr. Jyoti Agarwal.
For the State	:	Mr. S. G. Mukerji, Ld. P.P Mr. Imran Ali, Ms. Debjani Sahu.
For the defacto complainant/victim	:	Mr. Soumyajit Bhatta.
Hearing concluded on	:	21.08.2023
Judgment on	:	15.09.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred against judgment of conviction and an order of sentence dated 25.09.2018 passed by the learned Additional Sessions Judge, 2nd Court, Krishnagar, Nadia in connection with Criminal Appeal No.16 of 2018 arising out of the judgment and order dated 26.03.2018 passed by the learned Judicial Magistrate, 5th Court, Krishnagar, Nadia which corresponds to

Kotwali Police Station Case No.623 of 2013 dated 29.04.2013 (G.R. Case No.1943 of 2018) under Sections 341/325 of the Indian Penal Code, convicting thereby the appellant for commission of offence punishable under Sections 341/323 of Indian Penal Code and sentencing him to suffer simple imprisonment for three months and to pay fine of Rs.1,000/-, in default of payment of fine, to suffer simple imprisonment for a period of 15 days more for commission of offence under Section 323 of Indian Penal Code and to pay a fine of Rs.500/- for commission of offence punishable under Section 341 of Indian Penal Code, in default of payment to imprisonment for five days. Both the sentences to run concurrently.

2. Charge was framed for offence punishable under Sections 341/325 of the Indian Penal Code.
3. The petitioner has been convicted and sentenced for offences punishable under Sections 341/323 of the Indian Penal Code.
4. **The opposite party no.2/complainant and the victim, (now a major) have filed their respective affidavits stating that the dispute in the present case has been amicably settled.**
5. The parties are neighbours.
6. It is stated on affidavit that there was a misunderstanding between the parties and the proceeding was initiated.
7. It has also been stated that the defacto complainant and the victim do not have any objection if the petitioner is acquitted of all charges.
8. **Mr. Sandipan Ganguly, learned counsel for the petitioner** has relied upon the judgment of the Supreme Court in **Khursheed &**

Another vs. State of U.P & Anr., (2007) 12 SCC 68, delivered on 28th September, 2017.

“14. On the facts and in the circumstances of the case, and considering the deed of compromise and having heard learned counsel for the parties, in our opinion, ends of justice would be met if we grant necessary permission for compounding an offence punishable under Section 325 read with Section 34 IPC as required by sub-section (2) of Section 320 of the Code. The offence punishable under Section 323 IPC has already been compounded by the parties.

15. Sub-section (8) of Section 320 states that the composition of offence under the section shall have an effect of acquittal of the accused with whom the offence has been compounded. The resultant effect of compounding of offences would be that the accused should be acquitted. In other words, once the offences have been compounded and the requisite permission is granted by the court, the accused must be acquitted.

16. For the foregoing reasons, the appeal deserves to be allowed and is accordingly allowed. Compounding of offence is permitted and the appellants are ordered to be acquitted.”

9. Considering the materials on record, the affidavits filed by the defacto complainant and the victim, and the judgment relied upon, the compounding of the offences stands allowed as the offences for which the petitioner has been charged and convicted are all **COMPOUNDABLE** as per Section 320(1) Cr.P.C.
10. Section 341 and 323 of IPC are compoundable under Section 320(1) of Cr.P.C. The said offences are compoundable at the instance of the person who has been wrongfully restrained and to whom hurt is caused. In the present case, the victim, now a major has stated his willingness to compound both the offences on affidavit.

11. The revision accordingly stands allowed on being compounded under Section 320(1) Cr.P.C. and the petitioner/accused stands acquitted as per Section 320(8) of Cr.P.C.
12. **The revisional application being CRR 971 of 2019 is accordingly disposed of.**
13. All connected applications, if any, stands disposed of.
14. Interim order, if any, stands vacated.
15. Copy of this judgment be sent to the learned Trial Court for necessary compliance.
16. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)