

CRA-S-22-SB-2005 (O&M)
Reserved on: 25.04.2023
Date of Pronouncement: 02.05.2023

Under Section 452 read with Section 34 of the Indian Penal Code	Rigorous imprisonment for 1 ½ years and to pay a fine of Rs.500,- each. In default of payment of fine, they shall further undergo rigorous imprisonment for one month.
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Under Section 323 read with Section 34 of the Indian Penal Code	Rigorous imprisonment for one year.
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2. As per the complainant, he along with his brother Ramesh and father Sher Singh were falsely involved in a case FIR No.400, dated 20.10.2021, under Sections 323,506,307 read with Section 34 of the Indian Penal Code, Police Station Shahabad titled as “**State Vs. Sahab Singh etc.**” and the version of the complainant side was not taken into account by the police. The complainant alleged in his complaint that on 16.10.2001, he had gone to the fields on tractor and on the way, when he reached near the fields of Varinder Singh accused, he stopped his tractor and threatened him. Varinder Singh hurled abuses at him and slapped him and warned him not to bring tractor on that side in future. The complainant also slapped Varinder Singh in his defence and returned to his house. On 17.10.2001, he, his father Sher Singh and mother Ajmero were present in the house and the accused armed with dandas forcibly entered their house and started abusing them. They stated that they would teach a lesson to him for slapping Varinder Singh. Varinder Singh accused caused an injury with a danda on his back, whereas Balkar Singh accused gave a blow with danda on his hand, while Mehar Singh gave a blow with danda on his head. While he was being beaten up, in order to save himself, he brought a small danda from his house and caused injuries to Balkar Singh in his self-defence. Had he not done so, he would have been murdered by them and after causing injuries, he became unconscious. Later, he was shifted to Civil Hospital, Shahabad for treatment. Sher Singh and Ajmero Devi, his parents had witnessed the occurrence. After causing injuries to him, accused went to their

house in tractor and threatened that he would be killed in future.

3. At the very outset, learned counsel for the appellant submitted that in the present case, the matter was amicably resolved between both the parties before the learned Trial Court itself, at the time of awarding the sentence and it has been noted in the impugned order of sentence as well. Learned counsel further contended that the appellants have moved an application under Sections 482 Cr.PC read with Section 320 Cr.PC to allow the parties to compound the offences and to decide the appeal on the basis of the compromise between the parties. A copy of the compromise deed dated 08.12.2004 has also been placed on record as Annexure A-1. As per the said compromise, the dispute was between the families of two real brothers and they had resolved all their disputes, including the land dispute. A short reply has been filed by way of affidavit of Sahab Singh, complainant and he clearly stated that the parties had living peacefully, after entering into a compromise and belonged to the same family. Even the civil disputes pending between the parties have been resolved and they were living in the village in complete harmony since 2004. Further the learned counsel appearing on behalf of the complainant has also admitted the factum of compromise and prayed for acquittal of the appellants in view of the compromise between the parties.

4. I have heard learned counsel for the parties and with their able assistance; I have gone through the Trial Court record carefully.

5. It has been held by the Hon'ble Supreme Court in the matter of **Ramgopal and another Vs. State of Madhya Pradesh, 2021 (4) R.C.R. (Criminal) 322** as follows:-

*“10. The compendium of these broad fundamentals structured in more than one judicial precedent, has been recapitulated by another 3-Judge Bench of this Court in **State of Madhya Pradesh v. Laxmi Narayan & Ors., (2019) 5 SCC 688** elaborating:*

"(1) That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

(2) Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

(3) Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

(4) xxx xxx xxx

(5) While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he

was absconding, how he had managed with the complainant to enter into a compromise, etc. "

(Emphasis Applied) ”

11. *True it is that offences which are 'non-compoundable' cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C., 1973 Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, 1973 which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., 1973 which may justify its wider interpretation and include such offences in the docket of 'compoundable' offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C., 1973 is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C., 1973 The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C., 1973 in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.*

12. *The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., 1973 even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.*

13. *It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C., 1973 would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C., 1973 may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in **Narinder Singh & Ors. v. State of Punjab & Ors., (2014) 6 SCC 466** and *Laxmi Narayan (Supra)*.*

14. *In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not*

only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

6. In the instant case, the appellants have been convicted under Sections 323, 452, 34 of IPC. The offence under Section 323 is compoundable, whereas the offence under Section 452 IPC is not compoundable. However, keeping in view the nature of the offence and the fact that parties, who are closely related, have amicably settled all their disputes and both the sides are living peacefully in the village for the last about nineteen years, this Court can always quash such proceedings and can also acquit the accused by exercising inherent powers under Section 482 Cr.PC, even if the offences are non-compoundable. This Court also cannot lose sight of the fact that both the sides are families of two real brothers and even their civil disputes have been resolved between the parties. Apart from that, even their respective counsel have stated that the offences may be ordered to be compounded. Consequently, keeping in view the facts of the case and the law laid down by the Hon'ble Supreme Court, the parties are allowed to compound the offences in exercise of powers under Sections 482 Cr.PC read with Section 320 Cr.PC and the impugned judgment of conviction dated 01.12.2004 and order of sentence dated 06.12.2004, passed by the Court of Additional Sessions Judge (Ad hoc) Fast Track Court, Kurukshetra are set aside.

7. Sequally, the appellants are ordered to be acquitted of the charges.

8. The bail bonds of all the appellants stand discharged and they may

be released from custody, if not on bail and if not required in any other case.

9. All pending applications, if any, are also disposed off, accordingly.
10. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the appeal, in accordance with law. The trial court record be sent back.

02.05.2023
Hitesh

(N.S.SHEKHAWAT)
JUDGE

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