

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

(I) CRA-S-1198-SB-2018
Reserved on: 13.02.2023
Date of decision: 21.02.2023

SUNIL ...Appellant

Versus

STATE OF HARYANA ...Respondent

(II) CRA-AD-851-2019

MEENAKSHI ...Appellant

Versus

SUNIL KUMAR AND OTHERS ...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Jangvir Singh Hooda, Advocate
for the appellant (in CRA-S-1198-SB-2018)

Mr. P.R. Yadav, Advocate
for the appellant (in CRA-AD-851-2019)

Mr. Raman Sharma, Addl. A.G. Haryana

SURESHWAR THAKUR, J.

1. Since both the criminal appeals arise from a common verdict made on 13.03.2018, upon Sessions Case No.21 of 26.05.2015/17.05.2016, by the learned Additional Sessions Judge, Gurugram, thus both the criminal appeals are amenable for a common verdict being made thereons.

2. Accused Sunil Kumar, accused Bijender, accused Kavita, accused Anguri and accused Rajni faced trial before the learned Additional Sessions Judge, Gurugram in respect of charges drawn against them for offences punishable under Sections 323, 328, 307, 498-A, 506, 34 of the IPC. The afore accused except one Sunil Kumar were ordered to be acquitted. Through a verdict drawn by the learned Additional Sessions Judge, Gurugram, on 13.03.2018 upon Sessions Case No.21, however he proceeded to acquit the accused Sunil Kumar for charges drawn for offences punishable under Sections 328, 307, 506 read with Section 34 of the IPC. However, the learned Additional Sessions Judge concerned, proceeded to draw a verdict of conviction only against co-accused Sunil Kumar but in respect of charges drawn against him for an offence punishable under Section 498-A of IPC, and, also with respect to charge(s), as became drawn against him for an offence punishable under Section 323 of Indian Penal Code. Through a separate sentencing order, as became drawn by him on 13.03.2018, he proceeded to sentence the convict Sunil Kumar in the hereinafter extracted manner.

1	Section 323 Indian Penal Code, 1860	Convict is sentenced to undergo simple imprisonment for one year.
2	Section 498A Indian Penal Code, 1860	Convict is sentenced to undergo simple imprisonment for three years and a fine of Rs.5,000/-. In default of payment of fine he shall undergo simple imprisonment for three months.

3. Moreover, the period spent in custody by the convict during investigations, and, trial of the case, was in terms of Section 428 of the Cr.P.C., ordered to be set off from the above imposed sentence(s) of imprisonment.

4. Accused convict Sunil Kumar becomes aggrieved from the above verdict of conviction, and, the consequent therewith order of sentence (supra) as became imposed upon him, by the learned Convicting Court, and, is thus led to institute thereagainst the instant appeal before this Court. Moreover, the aggrieved-victim one, Meenakshi has also constituted before this Court, case No.CRA-AD-851-2019, wherethrough, she has challenged the verdict of acquittal as became drawn by the learned trial Judge concerned, whereby he proceeded to acquit the accused concerned, *qua* charges drawn against the accused for offences punishable under Sections 323, 328, 307, 498-A, 506, 34 of the IPC. Therefore, both the appeals are amenable for being decided through a common verdict.

5. However, during the pendency of both the appeals (supra), before this Court a compromise has occurred *inter-se* the appellant-accused and the aggrieved-victim one Meenakshi. The said compromise has been appended as Annexure A-1 with CRM-25798-2020. The certified copy of compromise as became drawn amongst them before the Mediation Centre concerned, carries the signatures of the victim as well as of her husband. A perusal of the said compromise, discloses that the victim would facilitate the making of an apposite order by this Court on CRA-S-1198-SB-2018.

6. The learned counsel appearing for the convict-appellant, as also the learned counsel appearing for the victim one Meenakshi in CRA-AD-851-2019, submit that both have been imparted instructions to convey to this Court, that the compromise has been voluntarily drawn, and, to also further convey to this Court, that it may proceed to on its anvil, make an order of composition, in respect of offences punishable under Sections 498-A, and, under Section 323 of the IPC, in respect whereof a verdict of conviction has been drawn against him.

Believing the above made statement(s) at the bar, this Court proceeds to accept the certified copy of the compromise appended with CRM-25798-2020.

7. Even though an offence punishable under Section 498-A of the IPC is not compoundable even with the leave of this Court. However, the above may not yet work as an impediment, for this Court, to but on the plank of the compromise, quash the impugned verdict of conviction, and, the consequent thereto imposition of sentence(s) of imprisonment (supra), as became imposed upon the convict, by the learned Convicting Court. The reason for this Court proceeding to do so, becomes anvil upon a judgment rendered by the Hon'ble Apex Court titled '*Rajendra Bhagat V. State of Jharkhand and another*', whereto *Criminal Appeal No.2 of 2022* was assigned. Thereins the Hon'ble Apex Court, has declared that Courts of law should refrain from refusing to reverse settlements drawn amongst marital partners, and, has also declared that after accepting such genuinely recorded settlements amongst the marital partners, the Courts of law may proceed to annul the appositely recorded verdict of conviction, and, as also the consequent thereto imposition of sentence(s), upon, the convict concerned.

8. Since a reading of the compromise appended as Annexure A-1 with CRM-25798-2020 reveals, that both the convict as well as the victim-aggrieved have through the making of a settlement amongst them, have genuinely settled all their matrimonial disputes. Therefore, since the above settlement, is but a genuine one, therefore, the settlement of matrimonial dispute(s) amongst the convict and his spouse one, Meenakshi, the aggrieved-victim-appellant, who has reared CRA-AD-851-2019 before this Court, does constrain this Court, to conclude, that the verdict (supra), as becomes rendered by Hon'ble Apex Court, is squarely applicable to the apposite settlement. Resultantly, this Court after

accepting the settlement (supra), hence allows CRA-S-1198-2018. Furthermore, this Court acquits the accused for the charges drawn against him, for offences punishable under Sections 498-A, and, under Section 323 of the IPC. Moreover, in the face of the above, the learned counsel appearing for the aggrieved-victim in CRA-AD-851-2019, has stated at the bar, that he has instructions to withdraw the said appeal. Accordingly, CRA-AD-851-2019 is permitted to withdrawn. Thus, the same is dismissed as withdrawn.

9. Bail bonds, if any, are ordered to be forthwith cancelled, and, discharged. Case property, if any, be dealt with in accordance with law, but only after the expiry of the period of limitation for the filing of an appeal.

10. Records be sent down forthwith.

11. Pending miscellaneous application(s), if any, in CRA-S-1198-SB-2018 stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

21.02.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No