

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

CRA-S-165-SB-2018

Date of Decision: February 14, 2023

Baljit Kumar @ Bobby

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Arvind Thakur, Advocate
for the appellant along with appellant in-person.
Mr. Ravinder Singh, AAG, Punjab.
Mr. J.S. Bhullar, Advocate for the complainant
along with complainant in-person.

HARKESH MANUJA, J (ORAL)

Present appeal has been directed against the judgment of conviction dated 16.12.2017 as well as order of sentence dated 21.12.2017 passed by the Court of Sessions Judge, Sri Muktsar Sahib, arising out of trial from FIR No.177 dated 27.10.2015 under Sections 307/323 IPC, registered at Police Station Sri Muktsar Sahib.

Facts of the case are that the marriage between the appellant and complainant, namely, Lovejeet Kaur took place on 18.02.1995 followed by birth of two children, namely, Waaris and Ameen. As a result of an unfortunate incident dated 26.10.2015, the above FIR came to be registered against the appellant on 27.10.2015, at the instance of his wife, namely, Lovejeet Kaur, resulting into his conviction under Section 307, 323 IPC by the Court

of learned Sessions Judge, Sri Muktsar Sahib vide judgment dated 16.12.2017 followed by order of sentence dated 21.12.2017; whereby the appellant was sentenced as under:-

Name of convict	Offence u/s	Sentence of imprisonment & fine	In default of payment of fine
Baljit Kumar	307 of IPC	RI 05 years & Rs.5000/- as fine	RI 06 months
	323 of IPC	RI 06 months	--

Aggrieved thereof, the present appeal came to be filed which was admitted by this Court vide order dated 16.01.2018.

Later, during the pendency of appeal, vide order dated 25.07.2018, the parties were directed to appear before Mediation and Conciliation Centre of this Court, resulting into a settlement dated 24.09.2018, arrived at between the parties; whereby the appellant and his wife/ complainant, namely, Lovejeet Kaur started living together and even continue to do so.

In the present appeal, challenging the findings recorded by the trial Court, learned counsel for the appellant submits that considering the nature of injuries inflicted upon the person of complainant as detailed in para 8 of the impugned judgment along with opinion given by the Doctor to the effect that the injuries were simple in nature and the weapon used in the commission of offence was blunt, the conviction under Section 307 IPC was wholly uncalled-for and at best the appellant could have been convicted under

Section 323 IPC. He further submits that in the wake of settlement having been arrived at between the parties, both husband and wife living together for past more than 04 years without there being any kind of fresh dispute or difference of opinion between them, the conviction which could be at best under Section 323 IPC, even was required to be compounded thereby resulting into acquittal of the appellant. In support, he places reliance upon a decision passed by the Hon'ble Supreme Court in the case of ***Ram Prasad and another Vs. State of Uttar Pradesh, (1982) 2 SCC 149***, and relevant extract of the same is reproduced hereunder for reference:-

“The appellants, who are the accused and the complainant, Shri Ram, who was the person injured as a result of firing, have appeared before us and stated that they wish to compound the offence. The offence for which both the appellants have been convicted is one under Section 307 read with Section 34 of the Indian Penal Code, but having regard to the nature of the injury sustained by Shri Ram, we think that the proper offence for which the appellants should have been convicted was under Section 324 read with Section 34. Shri Ram received only one injury on the shoulder and that was also in the nature of simple hurt. We would, therefore, convert the conviction of the appellants to one under Section 324 read with Section 34. Since the parties belong to the same village and desire to compound the offence, we think, in the larger interest of peace and harmony between the parties and having regard to the

nature of the injury, that it would be proper to allow the parties to compound the offence.

2. *We accordingly acquit the appellants of the offence under **Section 324 read with Section 34.***

3. *The appeals will stand disposed of accordingly.”*

Learned counsel also relies upon sub-Section 8 of Section 320 Cr.P.C. so as to contend that compounding of offence by virtue of settlement having been arrived at between the parties before the Mediation and Conciliation Centre has to be given an effect of acquittal in favour of the appellant.

Learned counsel for the complainant-Mr. J.S. Bhullar also supports the case of the appellant as regards the factum of settlement having been arrived at between the parties and also the parties staying together for the past more than 04 years.

On the other hand, learned State counsel while referring to the judgment passed by the trial Court submits that from a perusal of number of injuries inflicted upon the person of victim, offence under Section 307 IPC was fully proved against the appellant.

I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made on behalf of the appellant. A perusal of the injuries inflicted upon the person of victim which are mainly on the non-vital part of the body, besides those having been declared simple in nature and the weapon used being blunt, appellant should have been convicted at best for

having committed offence under Section 323 IPC as the intent to cause death of the victim is totally missing from the evidence led by the prosecution. Considering the aforesaid, the conviction of the appellant is thus, converted under Section 323 IPC, instead of Section 307 IPC, as recorded by the Courts below.

In view of the aforesaid and considering the facts and circumstances of the present case, wherein the dispute primarily arises out of a matrimonial discord between the husband and wife and the parties having settled their differences before the Mediation and Conciliation Centre of this Court; they having withdrawn their respective and counter litigation and now staying together happily for the past more than 04 years, relying upon the decisions rendered by the Hon'ble Supreme Court in **Ram Prasad's case (supra)** as well as in the case of ***Ram Gopal Vs. State of Madhya Pradesh***, reported as 2021 (4) RCR (Criminal) 322, read with Section 320 (8) Cr.P.C.; in order to maintain peace and harmony between husband and wife and their entire family including their children and parents; in order to give complete quietus to the dispute, the appellant is acquitted of the offence under Section 323 IPC by allowing the parties to compound the offence.

Parties who are present in person along with their respective counsels, undertake to abide by the terms of settlement dated 24.09.2018, arrived at between them.

Resultantly, the present appeal is allowed and conviction of the appellant is set aside.

February 14, 2023
sanjay

[HARKESH MANUJA]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no