

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

1. **CRM-M-14957-2023**
Date of Decision : June 01, 2023

MOHAN LAL AND ANR **.....Petitioners**

VERSUS

STATE OF PUNJAB AND OTHERS **.....Respondents**

2. **CRA-S-2089-SB-2010(O&M)**

HEM RAJ AND ANOTHER **.....Appellants**

VERSUS

STATE OF PUNJAB **.....Respondents**

3. **CRA-D-139-DB-2011(O&M)**

GURMAIL DASS **.....Appellant**

VERSUS

STATE OF PUNJAB & ORS **.....Respondents**

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

Present : Mr. Nandan Jindal, Advocate
for the petitioners (in CRM-M-14957-2023) and
for the appellants in (CRA-S-2089-SB-2010).

Mr. Amrinderjit Singh Sandhu, Advocate
for the appellant (in CRA-D-139-DB-2011).

Mr. Maninder Singh, DAG, Punjab.

Mr. Abhinandan Jindal, Advocate
for respondents No.2 to 4. (in CRM-M-14957-2023).

SURESHWAR THAKUR. J.(Oral)

1. Through a verdict drawn on 12.8.2010, upon Sessions Case

No. 13 dated 16.2.2009, the learned Additional Sessions Judge, Sangrur made a verdict of conviction against co-accused Hem Raj and Tarsem Chand. The above verdict of conviction became drawn in respect of the charges, drawn against convict-Tarsem Chand qua commission of offence punishable under Section 27 of the Arms Act. Moreover, the above verdict of conviction, as made against co-convict Hem Raj, thus was drawn in respect of charges framed for offences punishable under Sections 336, 426 of the IPC, and, under Section 25 of the Arms Act.

2. However, through the very same verdict, a finding of acquittal was recorded qua co-accused Mohan Lal.

3. The above verdict of conviction, as recorded against the convicts (supra), has also been challenged by them, through their instituting criminal appeal bearing No. CRA-S-2089-2010, before this Court.

4. It is stated today before this Court by the learned counsels appearing for the litigants concerned (in CRA-S-2089-2010), that during the pendency of the said appeal, the demise of co-convict Hem Raj has occurred. Therefore, insofar as the said appeal, to the extent it, relates to convict Hem Raj, it becomes abated, and, is dismissed as such.

5. Aggrieved-Gurmail Dass also preferred a separate appeal bearing No. CRA-D-139-DB-2011, seeking enhancement of the substantive sentence(s) of imprisonment, as became imposed by the learned convicting Court concerned, upon convicts Hem Raj and Tarsem Chand. In the said appeal, he also challenged the verdict of acquittal, as

became made qua co-accused Mohan Lal.

6. However, during the pendency of appeals (supra), a compromise has occurred amongst the accused, and, the victims, as also amongst the complainant. Thus, petitioners Mohan Lal and Tarsem Chand filed a petition under Section 482 of the Cr.P.C., seeking quashing of FIR bearing No. 86 of 6.6.2008, registered at Police Station Dirbha, District Sangrur, constituting therein offences punishable under Sections 307/447/511/427/148/149 of the IPC, and, those punishable under Sections 25/27/54/59 of the Arms Act, 1959, and, also prayed for all the consequential thereto proceedings, being also quashed, and, set aside.

7. This Court before proceeding to accept the said drawn compromise, had through an order, made on 24.3.2023, upon CRM-M-14957-2023, directed the parties to the said compromise, to make their respective appearance(s) before the learned Illaqa Magistrate concerned, and, to also record their respective statements in respect of the compromise (supra). Furthermore, a direction was also made, upon, the learned Illaqa Magistrate concerned, to make a report to this Court, with respect to the genuineness, as well as qua the voluntariness of the said compromise, besides to make a report, whether the said compromise has been compositely drawn.

8. The elicited report from the learned Illaqa Magistrate, has been placed on record. A perusal of the said report discloses, that the said compromise, as has been drawn amongst the litigants concerned, thus has been voluntarily executed.

9. Moreover, it is also stated, at the bar, by the learned counsels appearing for the litigants, that the said compromise is compositely drawn, inasmuch as all the victims/injured, besides the complainant, as well as the informant, have all appended their respective signatures thereons.

10. Even though, one of the offences, in respect whereof, a verdict of conviction was recorded against the convicts concerned, by the learned convicting Court concerned, is non-compoundable inasmuch as the offence constituted under Section 336 IPC. However, the said would not cause any obstacle for this Court to accept the compromise (supra). Therefore, this Court proceeds to allow petition bearing No. CRM-M-14957-2023, and, thereafter quashes the impugned verdict of conviction, as drawn against the convicts concerned, by the learned convicting Court. The reason for making the above inference, becomes grooved in the factum of an expostulation of law, being made by the Hon'ble Supreme Court in **Ram Gopal and another Vs. State of M.P. CRA-1489-2012**, whereby the High Courts become purveyed a leverage, to through the exercise of jurisdiction under Section 482 of the Cr.P.C., thus make an order of composition, even in respect of non-compoundable offences.

11. In consequence, petition bearing No. CRM-M-14957-2023, is allowed. The offences carried in the petition FIR are ordered to be compounded. Consequently, both the impugned verdict of conviction, as also the order of sentence, as drawn by the learned convicting Court

concerned, are quashed, and, set aside.

12. Since the compromise effected amongst the litigants concerned, is compositely drawn, and, is also reported by the learned Illaqa Magistrate concerned, to be made with the complete voluntariness of the parties concerned, to the said compromise, therefore, as prayed for, appeal bearing No. CRA-D-139-DB-2011, thus seeking enhancement of the sentence(s) of imprisonment, and, also seeking conviction of the acquitted accused concerned, is permitted to be withdrawn.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

June 01, 2023
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No