



\$~77

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 352/2022**

STATE

..... Appellant

Through: Ms. Shubhi Gupta, APP for the State
with SI Harish Kumar, PS: Chandni Mahal.

versus

MOHD MUQEEM & ANR.

..... Respondents

Through: Mr. Arun Sharma and Mr. Saleem
Ahmed, Advocates for R-1 and R-2 with said
Respondents in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

%

04.03.2024

**CRL.A. 352/2022 & CRL.M.A. 6897/2024 (for compounding of offence,
by Respondents)**

1. This Appeal was filed by the State under Section 377 Cr.P.C assailing the impugned order on sentence dated 23.02.2021, passed by Sh. Sanjay Sharma-II, Additional Sessions Judge-03, Central District, Tis Hazari Courts, Delhi in case FIR No. 212/2013 under Sections 308/34 IPC registered at PS: Chandni Mahal, titled '*State vs. Mohd. Muqeem and others*', in SC No. 27702/2016 and seeking enhancement of sentence.
2. CRL.M.A. 6897/2024 is an application preferred on behalf of the Applicants/Respondents seeking compounding of the offence under Section 323 IPC. Learned counsel for the Respondents submits that initially, the



present FIR No.212/2013 was registered under Sections 308/34 IPC at PS: Chandni Mahal, however, vide judgment dated 23.02.2021 Respondents were convicted for offence under Section 323 IPC. Respondent No.1 was sentenced to the period already undergone and fine of Rs.1,000/- while Respondent No.2 was sentenced to fine of Rs.1,000/-. Fine stands deposited by the Respondents. It is urged that the Complainant/Mohd. Asif and the Respondents have reconciled and resolved all their disputes and differences amicably and a Compromise/Settlement Deed has been executed between them on 21.02.2024, whereby parties have agreed that they would live in peace and harmony and maintain cordial relationships. Complainant has been compensated for the expenses incurred by him on treatment of the injuries suffered. It is thus prayed that the offence under Section 323 IPC be compounded. Reliance is placed on the judgment of the Supreme Court in ***Mohd. Abdul Sufan Laskar and Others v. State of Assam, (2008) 9 SCC 333***, wherein the Supreme Court had granted leave for compounding the offence under Section 324 IPC, when the same was a compoundable offence, prior to the Code of Criminal Procedure (Amendment) Act, 2005.

3. Learned APP does not dispute that the offence under Section 323 IPC is compoundable. She also states that the Compromise Deed has been verified and the Respondents have settled the matter with the Complainant/Mohd. Asif. It is stated that looking at the gravity of the offence, the sentence awarded is disproportionate and be enhanced.

4. I have heard learned counsel for the Applicants/Respondents and learned APP for the State.

5. As per the prosecution case, on 14.11.2013 at about 08:30 AM, both the Accused/Respondents herein, in furtherance of their common intention,



caused injuries on the complainant/Mohd. Asif, with intention or knowledge that by their act they would cause death. On receiving information of the quarrel, police team reached the spot and learnt that the injured had been taken to hospital. As per the MLC, Mohd. Asif suffered '*lacerated wound on left temporal area measuring 4 cms. x 1 cm. with blunt object*' and the nature of injury was opined to be simple. By a detailed judgment, after examining the evidence led before it, learned Trial Court observed that the Accused persons are immediate neighbours of the Complainant and had no previous enmity. The incident in question had taken place at the spur of the moment on a trivial issue of leakage of a drainage pipe and the nature of the injury was 'simple'. The injured did not require hospitalization and was released immediately after primary treatment. Trial Court thus rendered a finding that there was no intention or knowledge on the part of the Accused persons to cause culpable homicide not amounting to murder and offence under Section 308 IPC was not made out. Respondents were convicted for causing voluntary simple hurt to PW-1/Mohd. Asif punishable under Section 323 IPC. Being aggrieved by the sentence awarded, State preferred the present appeal under Section 377 Cr.P.C., seeking enhancement of sentence.

6. During the pendency of the present appeal, Respondents and Complainant have compromised the matter and executed a Settlement Deed. Application has been moved by the Respondents for compounding the offence under Section 323 IPC. Application is supported by the affidavit of the Complainant stating that he has no objection to the offence being compounded in view of the settlement between the parties and to maintain peace and harmony. Copy of the Compromised Deed is placed on record, duly signed by all the parties, wherein it is stated that all disputes and



differences have been resolved and Complainant has entered into the agreement without any pressure, coercion, threat or force as he wants to end the acrimony between the parties and also for the reason that he has been duly compensated for the medical expenses incurred on the treatment of injuries suffered.

7. It is not disputed that the offence under Section 323 IPC, for which the Respondents were convicted, is compoundable. The Supreme Court in ***Mohd. Abdul Sufan Laskar (supra)***, held that Section 320 Cr.P.C. deals with offences which are compoundable by the parties, without the leave of the Court or by the parties, but only with the leave of the Court and where the offence is compoundable and parties have compromised out of free will and without pressure, there is no reason to refuse permission to compound the offence. In ***Rakesh v. The State, CRL. A. No.1368/2011***, decided on 11.07.2016, this Court permitted compounding of offences under Sections 323/325 IPC based on a compromise between the Appellant and the injured, wherein all had signed the compromise deed willingly and injured had been compensated for the mental pain and the injuries suffered by him. Appellant/co-accused was acquitted in view of Section 320(8) Cr.P.C. Similar view was taken by this Court earlier in ***Anand Jain & Ors. v. State, 2012 SCC OnLine Del 612***, wherein this Court compounded offences under Sections 323/427 IPC on account of compromise between the Accused persons and the Complainant. Since in the present case the offence punishable under Section 323 IPC is compoundable without permission of the Court and Complainant and the Respondents have compromised the matter and compensation stands paid to the Complainant, Court finds no impediment in compounding the offence under Section 323 IPC.



Accordingly, the offence under Section 323 IPC is compounded and Respondents are acquitted. The fine deposited with the Trial Court need not be refunded.

8. The appeal as well as the application filed by the Respondents stands disposed of in the aforesaid terms.

JYOTI SINGH, J

MARCH 04, 2024/shivam/kks