

A MATHURA SINGH & ORS.
V.
STATE OF U.P.
Criminal Appeal No. 851 of 2009
APRIL 27, 2009

B (DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.)

CODE OF CRIMINAL PROCEDURE, 1973:

C s.320 – *Compounding of offences – Accused convicted
by trial court u/ss. 307/34 and 323/34 IPC – High Court
converting conviction to ss.324/34 and 323/34 IPC –
Application by complainant and accused for permission to
compound the offences – Allowed – Conviction and sentence
set aside – Penal Code, 1860 ss.324/34 and 323/34.*

D In the instant appeal filed against the judgment of the
High Court whereby the conviction recorded by trial court
u/ss 307/34 and 323/34 IPC was altered to ss.324/34 and
323/34 IPC, the complainant and the accused filed an
E application for permission to compound the offences.

Disposing of the appeal, the Court

F HELD : The complainant has volunteered to
compound the offence with the appellants for sufficient
and genuine reasons as stated in the affidavits and such
compounding would be proper. So far as the offence u/s
323 IPC is concerned, it is compoundable with the
consent of the injured. So far as the offence u/s 324 is
concerned, it is compoundable by the person to whom
G hurt is caused with the permission of the Court, in terms
of Sub-section (2) of s.320 IPC. The offences having been
permitted to be compounded, the conviction and
sentence are set aside. (para 5, 6) [105-A-C]

Manoj and Anr. v. State of Madhya Pradesh 2008 (9) SCC 116) – relied on. A

Case Law Reference

2008 (9) SCC 116) relied on para 4

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 851 of 2009 B

From the Judgement and Order dated 31.03.2008 of the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in Criminal Appeal No. 636 of 1985. C

S. Parikh, A.N. Singh, J. Sahu, Mamta Saxena, Anita Shenoy, for the Appellant.

Aditya K. Dubey, Shankar Divate, Umesh B. Chaurasiya, for the Respondent. D

The Judgement of the Court was delivered by

DR. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the judgment passed by the learned Single Judge of Allahabad High Court, Lucknow Bench, allowing the appeal filed by the appellants in part. The appellants were convicted by learned Additional Sessions Judge, Sultanpur, for offences punishable under Sections 307 and 324 both read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC'). For the offence relating to Section 307 read with Section 34 each was sentenced for imprisonment for five years R.I. and for the offence under Section 323/34 each was sentenced for six months R.I. E

2. By the impugned judgment the High Court altered the conviction to Section 324 read with Section 34 and 323 read with Section 34 IPC. It is not necessary to go into the factual aspects in detail as an application has been filed by the complainant and the accused persons stating that the F G H

A occurrence took place nearly 25 years back and the parties are related to each other and, therefore, they may be permitted to compound the offences. Individual affidavits of all the parties have been filed. It is to be noted that one of the injured persons Mutra Devi has expired on 23.3.1985.

B 3. As noted above, presently the appellants stand convicted for offences punishable under Sections 323 and 324 read with Section 34 IPC.

C 4. This Court in *Manoj and Anr. v. State of Madhya Pradesh* (2008 (9) SCC 116), has held as under:

D 13. We have examined the provisions of Section 320 of the Code of Criminal Procedure (for short "CrPC") which deals with compounding of offences. Section 320(1) CrPC provides that the offences punishable under the sections of the Penal Code specified in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table. Under sub-section (2) of Section 320, offences punishable under the sections of the Penal Code, specified in the first two columns of the table next following may, with the permission of the court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table. Voluntarily causing hurt by dangerous weapons or means by the accused constitutes an offence under Section 324 IPC which can be compounded by the person to whom hurt is caused with the permission of the court in terms of sub-section (2) of Section 320 CrPC.

G 14. It requires to be noticed that the CrPC (Amendment) Act, 2005 (Act 25 of 2005) amended Section 320 of the Code and in the table under sub-section (2)(a) the words "voluntarily causing hurt by dangerous weapons or means" in Column 1 and the entries relating thereto in Columns 2 and 3 have been omitted. But the said amendment by Act H 25 of 2005 has not yet been brought into force. Therefore,

the offence under Section 324 IPC is still compoundable with the permission of the court." A

5. We are satisfied that the complainant has volunteered to compound the offence with the appellants for sufficient and genuine reasons as stated in the affidavits and such compounding would be proper. So far as the offence under Section 323 is concerned, it is compoundable with the consent of the injured. So far as the offence under Section 324 is concerned, it is compoundable by the person to whom hurt is caused with the permission of the Court, in terms of Sub-section(2) of Section 320. B C

6. In view of that matter compounding the offence, the conviction and sentence are set aside.

7. Accordingly, the appeal is disposed of.

R.P.

Appeal disposed of.