

**(2014) 07 P&H CK 0731**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** CRR Nos. 1596 and 1746-2006

Mustaq Mohd.

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** July 9, 2014

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 320
- Penal Code, 1860 (IPC) - Section 148, 149, 323, 324, 325

**Hon'ble Judges:** Rekha Mittal, J

**Bench:** Single Bench

**Advocate:** Yousaf and J.S. Lalli, Advocate for the Appellant; Amrinder Singh Klar, AAG, Advocate for the Respondent

**Final Decision:** Disposed Off

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**Judgement**

Rekha Mittal, J.

By way of this order, I shall dispose of the aforesaid petitions as these have emerged out of judgment dated 26.07.2006 passed by the Additional Sessions Judge, Sangrur while hearing appeals emanating from trial pertaining to FIR No. 177 dated 30.09.1998 registered in Police Station Malerkotla for offence punishable under Sections 323, 324 read with Section 34 IPC being version and cross version.

2. Counsels representing the petitioners (convicts) in the aforesaid petitions would contend that dispute between the parties was settled by way of compromise during pendency of appeal before the Court of Sessions at Sangrur but the appellate Court expressed its inability to permit the parties to compound the offence due to offence u/s 452 IPC being non-compoundable as per the provisions of Section 320 of the Code of Criminal Procedure. It is further submitted that the parties have already faced trauma of criminal proceedings for the past over 15 years and they are residents of same village who have decided to forget their past with an intent to live in peace and harmony. It has been prayed that keeping in view the nature of the

offence charged against the petitioners, the period of their harassment due to pendency of criminal proceedings and the matter has been settled by way of compromise, the substantive sentence awarded by the Courts below may be set aside and the petitioners may be released by giving benefit of probation.

3. Counsel for the State has not disputed factual assertions and so also the factum of compromise between the parties as per reference made in the judgment passed by the Court in appeal.

4. I have heard counsel for the parties and perused the case file.

5. The petitioners in CRR-1596-2006 are convicts namely Gama Khan for offence punishable under Sections 324, 323 IPC and his co-accused namely Mohd. Ibrahim, Lal Din and Mushtaq mohd for the said offence with the aid of Section 34 IPC and Gama Khan was sentenced to rigorous imprisonment for a period of 6 months u/s 324 IPC, 3 months u/s 323 IPC. The co-accused were sentenced to rigorous imprisonment for a period of 3 months each. In the cross-version lodged at the instance of accused in the FIR case, they have been convicted for committing offence punishable under Sections 452, 148, 149, 323, 324, 325 IPC and sentenced to rigorous imprisonment for a period of 6 months each with fine u/s 452 IPC, 3 months each u/s 148 IPC, 3 months each u/s 149 IPC, 3 months each u/s 323 IPC, 3 months each u/s 324 IPC, 6 months each u/s 325 IPC and all the substantive sentences were ordered to run concurrently.

6. Both the sets of the petitioners have conceded to the fact that during pendency of appeal before the Court of Sessions, the dispute between the parties was settled by an amicable understanding with a view to create harmony after forgetting their past when otherwise there is no dispute that all the convicts are the residents of village Barkatpura, Police Station Malerkotla.

7. Keeping in view gamut of facts and circumstances discussed hereinabove, the petitions stand disposed of. The sentence awarded by the trial Court is set aside and the petitioners are ordered to be released on probation on their furnishing probation bonds in the sum of Rs. 10,000/- each with one surety in the like amount for a period of one year with an undertaking to exhibit good conduct and maintain peace, failing which to appear before the trial Court to receive the sentence within the aforesaid period. The probation bonds shall be furnished within a period of 2 months. The amount of fine already deposited by the petitioners shall be adjusted towards costs of proceedings.

8. The petitions stand disposed of with modification in the aforesaid terms.