

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 851 OF 2009
(Arising out of SLP (Crl.) No.7981 of 2008)

Mathura Singh & Ors.

...Appellant

Vs.

State of U.P.

...Respondent

JUDGMENT

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.

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 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.

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

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

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.

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 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.”

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.

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

7. Accordingly, the appeal is disposed of.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(ASOK KUMAR GANGULY)

New Delhi
April 27, 2009

