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**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

**CRIMINAL APPEAL No. 10130 of 2023**

**BETWEEN:-**

1. MANGAL SINGH S/O VIRENDRA SINGH, AGED ABOUT 30 YEARS, OCCUPATION: AGRICULTURIST R/O VILLAGE BARLAI KHACHROD DISTT.UJJAIN (MADHYA PRADESH)
2. VIRENDRA SINGH S/O KESHAR SINGH RAJPUT, AGED ABOUT 45 YEARS, OCCUPATION: AGRICULTURIST BARLAI, KACHROD, DIST. UJJAIN (MADHYA PRADESH)
3. GOVIND SINGH S/O REVAN SINGH RAJPUT, AGED ABOUT 20 YEARS, OCCUPATION: AGRICULTURIST BARLAI, KACHROD, DIST. UJJAIN (MADHYA PRADESH)
4. RAM SINGH S/O SHAMBHU SINGH RAJPUT, AGED ABOUT 29 YEARS, OCCUPATION: AGRICULTURIST BARLAI, KACHROD, DIST. UJJAIN (MADHYA PRADESH)

सत्यमेव जयते

.....APPELLANT

***(BY SHRI VIVEK SINGH, ADVOCATE )***

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE  
OFFICER THROUGH POLICE STATION KHACHROD  
DIST. UJJAIN (MADHYA PRADESH)**

.....RESPONDENTS

***(BY MS. NISHA JAISWAL, GOVT. ADVOCATE )***

.....  
**HEARD ON: 11.9.2023  
DELIVERED ON: 06.10.2023**  
.....

*This appeal coming on for judgment this day, the court passed the following:*

**JUDGMENT**

With consent of the parties heard finally.

1. This criminal appeal under Section 374 of Cr.P.C. has been filed by the appellants being aggrieved by the judgment dated 27.07.2022, passed by the learned Additional Sessions Judge, Khachrod, District- Ujjain in Sessions Trial No. 100251/2017, whereby the appellants have been convicted for offence under Sections 148, 307/149, 323/149 of IPC, and sentenced to undergo 01 year, 07- 07 years and 01-01 years R.I with fine of Rs. 1,000/-, 10,000/-10,000/- and Rs. 1000/- 1000/- respectively with default stipulations.

2. As per the prosecution story, the complainant Rajaram lodged an FiR that the field of the appellants and the complainant are adjacent. On 27.01.2017, he was working on his field with his sons then Govind, Virendra, Bhagwan, Mangal and Ramsingh alongwith a juvenile came on the spot armed with deadly weapons and abused the complainant, when the complainant's son Mahendra tried to stop for not abusing in filthy language, they assaulted the complainant and his sons and the appellants left the spot by threatening them to kill. Thereafter, the complainant has filed a complaint and on the basis of which police registered the case under Sections 307, 147, 148, 149 and 506 of IPC against the accused person. After completion of investigation, charge-sheet was filed and the learned Trial Court has convicted the appellant for the offence punishable under Sections 148, 307/149, 323/149 of IPC. A cross case was also registered by the appellants against the complainant party.

3. Before this Court, both the parties have filed an application for compounding the offences.

4 . The said application was sent for verification before the Principal Registrar vide order dated 28.08.2023. In compliance to the said order, the appellants and complainants also appeared before the Principal Registrar. The

compromise was verified and a report dated 06.09.2023 has been submitted that accused/appellants and the complainants have entered into compromise with mutual consent. There is no dispute remaining between the accused/appellants and the complainants. But as per the aforesaid report, the offence under Sections 148, 307/149 of IPC are non-compoundable.

5. Counsel for the appellants submits that so far as sentence is concerned, the appellants have already undergone jail sentence of more than one month and the incident had taken place in the year 2017. Compromise has already been done between the parties and therefore, while maintaining the conviction, the jail sentence may be reduced to the period already undergone by enhancing the fine amount on the basis of compromise.

6. Learned counsel for the respondent/state has opposed the prayer. However, counsel for the objector i.e. appellants of CRA. No.10169/2023 (cross-appeal) has not objected and fairly admitted that they have compromised the case with the appellants.

7. Nevertheless, the appellant has not impugned the merits of conviction and confined their arguments as to sentencing of the appellants on the basis of compromise application, but still this appellate Court is of the view to examine the sanctity of conviction. On this aspect, I have gone through the order of the trial Court. The prosecution case is not only fortified by the eye-witnesses including the injured persons, but also well supported by medical testimony and documentary evidence adduced before the trial Court. In view of the whole evidence produced by the prosecution, conclusion of learned trial Court regarding conviction appears to be on sound **reasonings**, it does not warrant any interference. Accordingly, the finding with regard to conviction under

Sections 148, 307/149 (two counts) of IPC, is hereby affirmed.

8. So far as the offence under Section 323 r/w 149 (two counts) of IPC is concerned, it is compoundable with the leave of this Court. Since there is no public interest involved in this case, the leave for compromise is granted and in the effect of that, the appellants are acquitted from the charges under Section 323 r/w 149 (two counts) of IPC on the basis of compromise.

9 . Now, the Court is turning to the sentencing part of non-compoundable offence under Section 307 r/w149 of IPC and effect of compromise placed by the complainant/injured and accused persons. In the case of **Narinder Singh and Ors Vs. State of Punjab And Anr, 2014 (6) SCC 466** relying on the various judgments, the Apex Court permitted the compounding in a non-compoundable case and quashed the criminal proceedings. The Hon'ble Apex Court in para no.21 has observed as under:-

"21. However, we have some other cases decided by this Court commenting upon the nature of offence under Section 307 of IPC. In **Dimpey Gujral case (supra)**, FIR was lodged under sections 147,148,149,323,307,552 and 506 of the IPC. The matter was investigated and final report was presented to the Court under Section 173 of the Cr.P.C. The trial court had even framed the charges. At that stage, settlement was arrived at between parties. The court accepted the settlement and quashed the proceedings, relying upon the earlier judgment of this Court in **Gian Singh vs. State of Punjab & Anr. 2012 AIR SCW 5333** wherein the court had observed that inherent powers under section 482 of the Code are of wide plentitude with no statutory limitation and the guiding factors are: (1) to secure the needs of justice, or (2) to prevent abuse of process of the court. While doing so, commenting upon the offences stated in the FIR, the court observed:

“Since the offences involved in this case are of a

personal nature and are not offences against the society, we had enquired with learned counsel appearing for the parties whether there is any possibility of a settlement. We are happy to note that due to efforts made by learned counsel, parties have seen reason and have entered into a compromise.” This Court, thus, treated such offences including one under section 307, IPC were of a personal nature and not offences against the society."

10. Here, it is also poignant that this compromise has been filed at the stage of appeal before this Court. On this aspect, the law laid down by Hon'ble Apex Court in the case of **Ishwar Singh vs. State of Madhya Pradesh [AIR 2009 SC 675]** is worth to be quoted here as under:

"15. In our considered opinion, it would not be appropriate to order compounding of an offence not compoundable under the code ignoring and keeping aside statutory provisions. In our judgment, however, limited submission of the learned counsel for the appellant deserves consideration that while imposing substantive sentence, the factum of compromise between the parties is indeed a relevant circumstances which, the Court may keep in mind."

11. On this point, the view of Hon'ble Apex Court in the **Unnikrishnan alias Unnikuttan versus State of Kerala reported in AIR 2017 Supreme Court 1745** is also worth referring in the context of this case as under:-

"10. In series of decisions i.e. **Bharath Singh vs. State of M.P. and Ors., 1990 (Supp) SCC 62, Ramlal vs. State of J & K, (1999) 2 SCC 213, Puttaswamy vs. State of Karnataka and Anr, (2009) 1 SCC 711**, this Court allowed the parties to compound the offence even though the offence is a non-

compoundable depending on the facts and circumstances of each case. In some cases this Court while imposing the fine amount reduced the sentence to the period already undergone."

11. What emerges from the above is that even if an offence is not compoundable within the scope of Section 320 of Code of Criminal Procedure the Court may, in view of the compromise arrive at between the parties, reduce the sentence imposed while maintaining the conviction."

12. Even this Court in Cr.A. No.268/2016 (**Kanha @ Mahesh v/s The State of Madhya Pradesh**) decided on 26.08.2017 as well as in Cr.A. No.561/2010 (**Radhakrishnan & 3 Others v/s The State of Madhya Pradesh**) decided on 18.04.2017 and in CRA No.604/2000 (**Aaram singh vs. The State of Madhya Pradesh**) decided on 08.08.2019, **Sohan Jangu & others vs. State of Madhya Pradesh passed in CRA No.550/2023 on 11.07.2023**, has taken a similar view.

13. On this point, this Court is also inclined to quote the excerpt of the judgment rendered by Hon'ble Apex Court in the case of **Bhagwan Narayan Gaikwad vs. State of Maharashtra; [2021 (4) Crimes 42 (SC)** which is as under:-

"28. Giving punishment to the wrongdoer is the heart of the criminal delivery system, but we do not find any legislative or judicially laid down guidelines to assess the trial Court in meeting out the just punishment to the accused facing trial before it after he is held guilty of the charges. Nonetheless, if one goes through the decisions of this Court, it would appear that this Court takes into account a combination of different factors while exercising discretion

in sentencing, that is proportionality, deterrence, rehabilitation, etc.

29. The compromise if entered at the later stage of the incident or even after conviction can indeed be one of the factor in interfering the sentence awarded to commensurate with the nature of offence being committed to avoid bitterness in the families of the accused and the victim and it will always be better to restore their relation, if possible, but the compromise cannot be taken to be a solitary basis until the other aggravating and mitigating factors also support and are favourable to the accused for molding the sentence which always has to be examined in the facts and circumstances of the case on hand."

14. As the offence under Sections 148, 307/149 of the Indian Penal Code is not compoundable under Section 320 of the Code of Criminal Procedure, 1973, it is not possible to pass the order of acquittal on the basis of compromise but, it is by now well settled that such a compromise can be taken into account for reduction of sentence. The appellants and the complainant are living in the same society, they are residing happily since last so many years, they want to live with peace, and therefore, to meet the ends of justice, the sentence of imprisonment awarded against the appellants may be reduced to the period already undergone

15. In view of the aforesaid principles laid down by Hon'ble Apex Court and by this Court taking into consideration that the incident had taken place in the year 2017 and further the appellants have already undergone jail sentence of approximately one month each and no fruitful purpose would be served in keeping the appellants in jail even after the compromise between the parties, this

Court is of the view that while maintaining the conviction under sections 148, 307/149 (two counts) of IPC, the jail sentence under these offences is reduced to the period already undergone by enhancing fine amount from Rs.10,000/- to Rs.20000/- (two counts) (by each of the appellant). In other words, each appellant will deposit Rs.40000/- for the offence punishable under Section 307 of IPC (two counts). Fine amount awarded by the learned trial Court under Section 148 of IPC stands affirmed.

16. In case, if the appellants fail to deposit the aforesaid enhanced fine amount within stipulated period, they shall suffer 6-6 months S.I. each.

17. Out of the enhanced fine amount so deposited by the appellants, Rs.50000/- would be paid to each of the injured Rajaram and Mahendra as compensation. The amount of fine if already deposited and compensation already paid to the injured, shall be adjusted.

18. The appellants are already on bail. Their bail bonds would be canceled.

19. The judgment of learned trial Court regarding seized property stands confirmed.

20. A copy of this order be sent to the trial Court concerned for necessary compliance.

Pending application, if any shall be closed.

With the aforesaid, the present appeal stands disposed off.

Certified copy, as per rules.

**(PREM NARAYAN SINGH)**  
**JUDGE**