

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

**BEFORE**

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

**CRIMINAL APPEAL No. 10761 of 2023**

**BETWEEN:-**

**BABLU S/O JAMNALAL, AGED ABOUT 43 YEARS,  
OCCUPATION: LABOUR 319, CHHOTI BHAMORI,  
DISTRICT INDORE (MADHYA PRADESH)**

**.....APPELLANT**

***(BY SHRI DURGESH SHARMA, ADVOCATE)***

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE  
OFFICER THROUGH POLICE STATION LASUDIYA,  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI ANAND BHAT, GA FOR STATE )***

**CRIMINAL APPEAL No. 10361 of 2023**

**BETWEEN:-**

**RAJESH S/O ASHARAM VANVE, AGED ABOUT 55 YEARS,  
OCCUPATION: LABOUR 225 GREEN SINGAPOR  
TALAWALI CHANDA, DISTRICT INDORE (MADHYA  
PRADESH)**

**.....APPELLANT**

***(BY SHRI SNAJAY JOSHI, ADVOCATE )***

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE  
OFFICER THROUGH POLICE STATION LASUDIA  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI ANAND BHATT, GA FOR STATE )***

.....  
***Reserved on:23.11.2023***

.....  
*These criminal appeals were heard with the consent of parties and the court pronounced the following:*

**JUDGMENT**

1. Both the criminal appeals were heard analogously being arising out of the same crime number and are being decided with the common order.

2. The present appeals have been filed against the judgment of conviction and sentence dated 13.07.2023, passed by the 4th Additional Sessions Judge, Indore in Sessions Trial No.1600436/2014, whereby, the appellants have been convicted under sections 420, 467, 168 of IPC and sentenced to undergo 07, 10 and 07 years with fine of Rs.1000/- for each offences respective with default stipulations. In addition, the appellant Bablu has also been convicted and sentenced under Section 465 r/w 471 of IPC and sentenced for 02 years R.I. with fine of Rs.1000/- alongwith default stipulations.

3. As per the prosecution case, the allegations against the appellants is that Bablu and Rajesh alongwith other co-accused persons namely Rajesh and Mittal have hatched a conspiracy and sale out the plot of the complainant on the basis of forged and fabricated Mukhtiyarnama by keeping present another person on behalf of the complainant before the registry officer. Hence, on the complaint of the complainant, the offence was registered against the appellants and co-accused persons.

4. After completion of investigation, charge-sheet was filed. Thereafter, the learned trial Court has framed the charges against the appellants under Section 420, 467, 468 and 471 of IPC. The matter was later on committed to the Court of sessions and the learned Trial Court has convicted the appellants for the offence punishable under sections 420, 467, 468, 465/471 of IPC of IPC. Both the parties have filed an application for

compounding the offences before this Court.

5. The said application was sent for verification before the Principal Registrar of the Court alongwith the record vide order dated 27.10.2023. In compliance to the said order, the appellant/Bablo marked his presence before the Principal Registrar through with his counsel in custody of escort and complainant also appeared before the Principal Registrar. The compromise was verified and a report dated 02.11.2023 has been submitted in which it is mentioned that accused/appellant and the complainant has entered into compromise with mutual consent. There is no dispute is remained between the accused/appellant and the complainant.

6 . Further, it is also pertinent to mention here that there is no compromised filed before this Court regarding appellant Rajesh, but after going through the record, it is evident that the complainant has fled compromise application under Section 320(2) of Cr.P.C. against both the appellants Bablu and Rajesh and clearly narrated in his application that due to advise of reputed and senior citizens of the vicinity, the matter has been settled by him with both the appellants. This fact has also been mentioned in para no.14 of the judgment of learned trial Court that the complainant has conceded in his cross-examination that the compromise has been executed between the complainant and both the appellants. In these conditions, it would be assumed that the complainant has settled his dispute with both the appellants. Therefore, in light of the aforesaid, counsel for both the parties prays for undergone of the jail sentence of the appellants to the period already undergone by enhancing the fine amount on the basis of compromise.

7. Counsel for the appellants submits that the appellant has already undergone jail sentence of approximately two years and six months respectively

and the incident had taken place in the year 2013. As the parties have entered into compromise, the appellants may be discharged from the aforesaid offence.

8 . Learned counsel for the respondent/state submits that as per the verification report, the offence under sections 467, 468 and 465/471 of IPC is non-compoundable, therefore, the offence cannot be compounded under section 320 of the Cr.P.C

9. Nevertheless, the appellant has not impugned the merits of conviction 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 witnesses but also well supported by documentary evidence adduced before the trial Court. In view of the whole evidence produced by the prosecution, conclusion of learned trial Court regarding conviction is appears to be on sound reasoning, it does not warrant any interference. Accordingly, this finding with regard to conviction under Sections 420, 467, 468, 465/471 of IPC, is hereby affirmed.

10 . Now, the Court is turning to the sentencing part and effect of compromise placed by the complainant/injured and accused person. 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.”

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11. On this aspect, the observations of Hon'ble Apex Court rendered in **Jagdish Chanana and others vs. State of Haryana and Another [(2008) 15 SCC 704]**, is also worth to mention here. It is held that in the cases where offences under Sections 419, 420, 465, 468, 469, 471, 472, 474 r/w 34 of IPC are attracted, the FIR can be quashed under Section 482 r/w Section 320 of Cr.P.C. The observations are reproduced here as under:-

"2. This appeal is directed against the order dated 24th July 2006 rejecting the prayer for quashing of FIR No.83 dated 12th March 2005 P.S. City Sonapat registered under Sections 419,420,465,468,469,471,472,474 read with Section 34 of the IPC.

3. During the pendency of these proceedings in this Court, Crl.Misc.Petition No. 42/2008 has been filed putting on record a compromise deed dated 30th April 2007. The fact that a compromise has indeed been recorded is admitted by all sides and in terms of the compromise the disputes which are purely personal in nature and arise out of commercial transactions, have been settled in terms of the compromise with one of the terms of the compromise being that proceedings pending in court may be withdrawn or compromised or quashed, as the case may be.

3. In the light of the compromise, it is unlikely that the prosecution will succeed in the matter. We also see that the dispute is a purely personal one and no public policy is involved in the transactions that had been entered into between the parties. To continue with the proceedings, therefore, would be a futile exercise. We accordingly allow the appeal and quash FIR No.83 dated 12th March 2005 P.S. City Sonepat and all consequent proceedings."

12. Here, it is also poignant that this compromise has been filed at the stage of appeal before this Court, but the same was also filed before the trial Court also. 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 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."

13. 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.

14. 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."

15. As the offence under Section 467, 468, 465/471 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 appellant may be reduced to the period already undergone

16. 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 2013 and further the appellants has already undergone jail sentence of approximately two years and six months respectively and no fruitful purpose would be served in keeping the appellant in jail even after the compromise



between the parties, this Court is of the view that while maintaining the conviction under sections 420, 467, 468, 465/471 of IPC, the jail sentence under this offence is reduced to the period already undergone on the basis of compromise and fine amount of Rs.1000/- is also enhanced to Rs.10000/- for each offences. The appellant Bablu and Rajesh are directed to deposit total fine of Rs.40000/- & Rs.30000/- respectively within a month from today.

17. Subject to deposit the aforesaid fine amount by the appellants before the trial Court with the aforesaid period, they shall be released from the jail.

18. The bail bond of the appellants shall be discharged after depositing the enhanced fine amount only. In case of default of payment of fine amount, the appellants shall undergo further six months S.I.

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.

21. A copy of this order be kept in the record of connected criminal appeal also.

22. With the aforesaid, the present appeal stands disposed off.

Certified copy, as per rules.

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