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

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

ON THE 13th OF OCTOBER, 2023

CRIMINAL APPEAL No. 10883 of 2023

BETWEEN:-

**NITINSINGH S/O NAVLESHWAR SINGH,
AGED ABOUT 47 YEARS,
OCCUPATION: LABOUR
R/O. DEVI AHILYA COLONY TEHSIL HATOD
DISTRICT INDORE (MADHYA PRADESH)**

.....APPELLANT

**(MS. ANITA JAIN, LEARNED COUNSEL WITH SHRI VIVEK SINGH,
LEARNED COUNSEL FOR THE APPELLANT)**

AND

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

.....RESPONDENTS

**(SHRI GAURAV RAWAT, DY. GOVT. ADVOCATE FOR RES No.1./STATE)
(SHRI NARESH PIPLODIYA, LEARNED COUNSEL FOR THE RESPONDENT
NO.2)**

.....

*This appeal coming on for judgement 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 appellant being aggrieved by the judgment dated 21.08.2023 passed by the learned Fourth Additional Sessions Judge, District-Indore in Sessions Trial No.8100481/2014, whereby the appellant has been

convicted for offence under Sections 420, 467, 468 and 467/471 of IPC, 1860 and sentenced to undergo 07 years, 10 years, 07 years and 08 years R.I with fine and usual default stipulations.

2. Prosecution story in brief is that complainant Sangeetha lodged a report that two three days before 26.09.2013 applicant met complainant and informed her about sale of land bearing survey No.442 and 447/01 total, admeasuring 1.68 acre belonging to one Radheshyam and Bheemsingh of Depalpur, he also informed her that he is having power of attorney to execute the sale of aforesaid land. On 26.09.2013 the applicant executed an agreement in favour of complainant for a consideration of Rs.61 lakhs and the applicant received an advance payment of Rs.14 lakhs from the complainant. Thereafter, the applicant remained absent and on suspicion when complainant enquired applicant about the land and asked for other documents with regard to the land she came to know that the applicant was not having any power of attorney for executing the sale of the aforesaid land and he has committed fraud by executing forged documents. On the basis of which crime No.126/2014 was lodged against the applicant for offence under Section 420, 467, 468 and 471 of IPC, 1860.

3. During the pendency of this appeal both the parties have filed an application for compounding the offences.

4. The said application was sent for verification before the Principal Registrar of the Court vide order dated 09.10.2023. In compliance to the said order, both the parties appeared before the Principal Registrar and have been duly identified by their counsel. The compromise was verified and a report dated 11.10.2023 has been

submitted in which it is mentioned that accused/appellant and the complainants have entered into compromise with mutual consent. There is no dispute is remained between the accused/appellants and the complainants.

5. Counsel for the appellant submits that both the parties have compromised the case against each other and the appellant has already undergone more than one year and six months in custody and the incident had taken place in the year 2014 as the parties have settled their dispute and entered into compromise, the appellant may be discharged from the aforesaid offence.

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

7. Looking to the fact that both the parties have entered into compromise. 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 statement of 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 and Section 467/471 of IPC, is

hereby affirmed. **However, so far as the offence under Section 420 is concerned, in effect of compromise, the appellant discharged from the aforesaid offence.**

8 . 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."

8. Here, it is also poignant that this compromise has been filed at the stage of appeal before this Court. 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 71** 1, 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."

9. 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.

10. On this point, this Court is also 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."

11. As the offence under Sections 467, 468 and Section 467/471 are 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 since the offences involved in this case are of a personal nature and are not offences against the society, it is by now well settled that such a compromise can be taken into account for reduction of sentence. The appellant and the complainant are living in the same society and they want to live with peace, therefore, to meet the ends of justice, the sentence of imprisonment awarded against the appellant under Sections 467, 468 and Section 467/471 of IPC may be reduced to the period already undergone

12. 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 2014 and further the appellant has already undergone jail sentence of more than one year and 6 months 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 467, 468, 467/471 of IPC, the jail sentence under this offence is reduced to the period already undergone by enhancing the fine amount from Rs.1000/- to Rs.10,000/- for each offences under Sections 467, 468, 467/471 of IPC (a total amount of Rs.30,000/-) within a period of three months from today. Out of the total fine amount Rs.10,000/- be paid to complainant. Fine amount and compensation

already paid, if any, shall be adjusted. The bail bond of the appellant shall be discharged after depositing the compensation amount. In case of default of payment of fine amount, the appellant shall undergo further one month S.I.

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

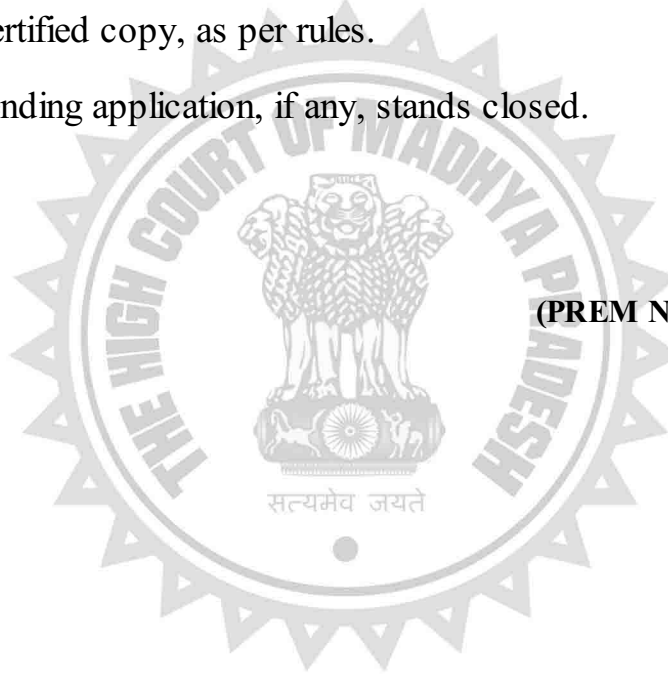
16. A copy of this order be sent to the trial Court concerned for necessary compliance.

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

Certified copy, as per rules.

Pending application, if any, stands closed.

sumathi



(PREM NARAYAN SINGH)
JUDGE