

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

**BEFORE**

**HON'BLE SHRI JUSTICE HIRDESH**

**ON THE 20<sup>th</sup> OF DECEMBER, 2023**

**CRIMINAL APPEAL No. 11868 of 2023**

**BETWEEN:-**

**DEVENDRA SINGH THAKUR S/O SHRI  
DHEERAJ SINGH, AGED ABOUT 31  
YEARS, OCCUPATION: DOCTOR  
RESIDENT OF VILLAGE HARNAWADA  
POLICE STATION JAWAR DISTRICT  
SEHORE (MADHYA PRADESH)**

**.....APPELLANT**

***(BY SHRI MANISH DATT, SR. ADVOCATE WITH SHRI ESHAAN  
DATT - ADVOCATE )***

**AND**

**THE STATE OF MADHYA PRADESH  
THROUGH POLICE STATION JAWAR  
DISTRICT SEHORE (MADHYA PRADESH)**

**.....RESPONDENT**

***(MS. SHALINI TRIPATHI – PANEL LAWYER AND SHRI RAHUL  
KUMAR CHOURASIYA – ADVOCATE FOR COMPLAINANT)***

**RESERVED ON : 08.12.2023**

**PRONOUNCED ON : 20.12.2023**

*This appeal having been heard and reserved for judgment, coming on for pronouncement this day, this court passed the following:*

### **JUDGMENT**

1. This criminal appeal has been filed under Section 374 (2) of Cr.P.C. by the appellant being aggrieved by the judgment dated 11.09.2023 passed by the Second Additional Sessions Judge, Sehore in S.T. No. 17/2021 whereby the appellant has been convicted under Section 323 of IPC and sentenced to undergo R.I. for six months with fine of Rs. 500/-, Section 324 of IPC and sentenced to undergo R.I. for one year with fine of Rs. 1,000/-, under Section 325 of IPC and sentenced to undergo R.I. for two years with fine of Rs. 2,000/- and Section 307 (two counts) of IPC and sentenced to undergo R.I. for four years (on each count) with fine of Rs. 4,000/-, with default stipulations.
2. As per prosecution story, on 19.11.2020, appellant is alleged to have committed marpeet with complainant Tej Singh Thakur and assaulted him with a knife, due to which complainant party sustained various injuries. Complainant filed FIR at the concerned police station. On the basis of which the police registered the offence against appellant. After completion of the investigation, charge sheet has been filed before the Magistrate Court and thereafter, matter was committed before the Sessions Court.
3. Trial Court framed the charge against the appellant. Appellant abjured the guilt and pleaded for innocence. Thereafter, the trial Court took evidence of the prosecution and defence and after hearing arguments of both the

parties, convicted and sentenced the appellant for the offences as stated hereinabove vide impugned judgment.

4. The appellant being dissatisfied with the impugned judgment filed this instant appeal on various grounds.

5. Before this Court, both the parties have filed an application for compounding of the offence. The said application was sent for verification before the Registrar(Judicial). In compliance of said order, appellant and complainant appeared before the Registrar (Judicial). The compromise was verified and a report has been submitted by the Registrar (Judicial) before this Court that appellant/accused and the complainant have entered into compromise with mutual consent. Now there is no dispute remaining between the appellant/accused and the complainants. But as per aforesaid report, offence under Section 307 of IPC is non-compoundable.

6. Learned counsel for the appellant submitted that so far as sentence is concerned, the appellant has already undergone jail sentence from 20.11.2020 to 16.02.2021 and further from 11.09.2023 he is in jail till date.

7. Compromise has been already done between the parties, therefore, while maintaining the conviction, the jail sentence may be reduced to the period already undergone by enhancing the amount of fine on the basis of compromise.

8. Learned Panel Lawyer for the respondent/State has opposed the prayer, however, the learned counsel for complainant has no objection and fairly admitted that they have entered into compromise in the case with the appellant.

9. Nevertheless, the appellant has not impugned the merits and of conviction and confined their arguments as regards sentencing the appellant on the basis of compromise application, but still this appellate Court is of the view to examine 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 injured persons, but also well supported by medical testimony and documentary evidence adduced before the trial Court. In view of evidence produced by the prosecution, conclusion of trial Court regarding conviction appears to be sound with **reasonings**, therefore, it does not warrant any inference. Accordingly, the finding with regard to conviction under aforesaid sections is hereby confirmed.

10. So far as the offence under Section 323 and 325 of IPC are concerned, it is compoundable with the leave of this Court. Since, there is no public interest involved in this case, so leave for compromise is granted and in the effect, the appellant is acquitted from the charges under Sections 323 and 325 of IPC on the basis of compromise.

11. Now, the Court is turning to the sentence part of non-compoundable offence under Section 307 (two counts) of IPC and Section 324 of IPC and the effect of compromise placed by the complainant/injured 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.”*

12. 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."*

13. 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 71 1**, this Court allowed the parties to compound the offence*

*even though the offence is a noncompoundable 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."*

14. 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.

15. 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 6 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.”*

16. As the offence under Sections 307 (two counts) of IPC and Section 324 of IPC of the Indian Penal Code is non-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 for 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.



17. In view of the aforesaid principles laid down by the Apex Court and by this Court taking into consideration that the incident had taken place in the year 2020 and further the appellant has already undergone jail sentence of approximately six months and no fruitful purpose would be served in keeping the appellant in jail further even after the compromise between the parties, this Court is of the view that while maintaining the conviction under sections 307 and 307/34 of IPC, the jail sentence under the offence is reduced to the period already undergone by enhancing fine amount from Rs. 11,500/- to Rs.20,000/-.

18. In case, if the appellant fails to deposit the aforesaid enhanced fine amount within 30 days from today, he shall suffer further 6 months S.I.

19. Out of the enhanced fine amount so deposited by the appellant, Rs.20,000/- would be paid to the injured/complainants as compensation. The amount of fine, if already deposited and compensation if already paid to the injured, shall be adjusted.

20. The appellant is in jail. It is directed to jail authority to release him if he is not wanted in any other case.

21. The judgment of learned trial Court regarding seized property and compensation stands confirmed.

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

Pending applications, if any shall be treated to be disposed off.

With the aforesaid, the present appeal stands disposed off.

Certified copy, as per rules.

**(HIRDESH)**  
**JUDGE**

VKV/-