

(1988) 01 AHC CK 0001
In the Allahabad High Court
Case No : Criminal Revision No. 1382 of 1985

Mohammad Hanif and Others

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 20-01-1988

Acts Referred:

Penal Code, 1860 (IPC) — Section 324, 34, 452

Citation : (1988) 1 AWC 496

Hon'ble Judges : V.P. Mathur, J

Bench : Single Bench

Advocate : Amar Saran, for the Appellant; AGA and Sanjiv Ratna, for the Respondent

Judgement

V.P. Mathur, J.—This criminal revision was directed against the judgment and order dated 22-7-1985 passed by Sri D.D. Sharma, the XIth Additional Sessions Judge, Moradabad. The learned Judge was disposing of Criminal Appeal - No. 113 of 1985 which was against the order of conviction and sentence passed against the revisionists by Sri Shyam Shanker Tewari, Additional Chief Judicial Magistrate, Moradabad on 13-5-1985. The case was under Sections 452 and 324 read with 34 Indian Penal Code. The learned Magistrate had convicted the revisionists on both the charges and had sentenced them to two years' rigorous imprisonment u/s 452 Indian Penal Code plus a fine of Rs. 2000/- each and in default, further rigorous imprisonment for three months and, to one year's rigorous imprisonment u/s 324 read with 34 of the Indian Penal Code.

2. In brief the prosecution case was that Abdul Aziz complainant who is resident of mohalla Sarai Hussaini P.S. Naagfani was at about 7.00 p.m. on 25-8-1983 taking his meal in the verandah inside his house. His wife Smt. Raeesa was also present nearby watching television programme at the place of her tenant Mohd. Ayooob through her wall. The revisionists suddenly came there. They poured acid on Smt. Raeesa. Abdul Aziz tried to apprehend the culprits but they managed to escape. A number of witnesses came on the spot. Smt. Raeesa was burnt at

several places on her body. A report was lodged at police station Naagfani at 7.30 p.m. the same day. Investigation was made and ultimately a charge sheet was submitted.

3. During the course of the proceedings of this revision in this Court, parties entered into compromise and submitted a deed of compromise. They also sought permission to compound the offence. (The learned Additional Sessions Judge had dismissed the appeal and confirmed the order passed by the learned Magistrate)

4. So far as charge u/s 324 read with 34 Indian Penal Code is concerned it is compoundable with the permission of the Court. Parties are close neighbours and in the deed of compromise it has been mentioned that they are related to each other. They want to live like peaceful citizens and want to forget and forgive. Under these circumstances permission to compound the offence u/s 324 read with 34 Indian Penal Code is accorded.

5. So far as the charge u/s 452 is concerned, it is not compoundable. Nevertheless, in view of the case of *Ram Poojan v. State of U.P.* 1973 (SC) 304 the fact of the compromise can be taken into consideration in awarding the sentence in connection with a non-compoundable offence. The compromise petition was sent down to the Court below for verification and it has been received back after verification. Under these circumstances, the revision stands allowed to this extent that while the conviction of the revisionists u/s 452 of the Indian Penal Code is upheld and confirmed, the sentence is reduced to imprisonment already undergone plus a fine of Rs. 1500/- against each. I am told that the amount of fine to this extent has been deposited by each of the revisionists. The receipts Nos. 97, 98 and 99 of Book No. 38683 dated 13-5-1985 have been shown to me. The learned Magistrate in the court below shall verify and if the amount of fine has already been paid and deposited, no further action need be taken. In case, the fine has not yet been paid or deposited, the action for its realisation shall be taken. It is however provided that in default of the payment of fine, defaulter shall undergo two month's rigorous imprisonment. So far as the offence u/s 324/34 is concerned, it stands compounded and on that charge, the applicants-revisionists stand acquitted.