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**(2005) 10 AHC CK 0088**

**In the Allahabad High Court**

**Case No :** Criminal Miscellaneous Application No. 14442 of 2005

Rajpal and Sanjiv

APPELLANT

Vs

State of U.P. and Satyawar

RESPONDENT

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**Date of Decision :** 04-10-2005

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 320  
Penal Code, 1860 (IPC) — Section 307, 324, 34, 506

**Citation :** (2005) 10 AHC CK 0088

**Hon'ble Judges :** Poonam Srivastava, J

**Bench :** Single Bench

**Advocate :** Raghuraj Kishore, for the Appellant; A.G.A., for the Respondent

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## **Judgement**

Poonam Srivastava, J.—Heard Shri Raghuraj Kishore, counsel for the applicants and learned A.G.A.

2. The submission on behalf of the applicants is that Sessions Trial No 1105 of 1999 State v. Raj Pal and Anr. under Sections 307, 506 I.P.C., Police Station Gangoh, Saharanpur, is pending and the compromise submitted in the same, may be accepted.

3. The facts giving rise to the dispute is that on 3rd May, 1999, at 6.30 P.M., the applicants caught hold of the victim Sukrampal and caused injuries with knife A first information report was registered on 4.5.1999 at 4.300 P.M. The victim was the medically examined the doctor did not give any opinion with regard to the injury. Injury report has been annexed as annexure no. 2 to the affidavit filed in support of this application There were two injuries on the body of the victim. According the to the opinion of doctor, one injury was found to be simple in nature and Anr. was kept under observation Subsequently, no X-Ray was performed as there was no supplementary injury report on record. After completion of investigation, the police submitted a charge sheet u/s 307 IPC A compromise was entered into between the victim and the accused on 22.8.2005 and the same was filed in the court of Additional Sessions Judge, Court No. 3,

Saharanpur in Sessions Trial No. 1105 of 1999 State v. Rajpal and Anr. , with the specific prayer that they did not want to continue the proceedings ;and, therefore, in view of the compromise, the proceedings may be dropped. This application was rejected by means of impugned order on the ground that Section 307 IPC is not compoundable hence the compromise cannot be accepted. .

4. It is submitted that the injuries were not such which could either be dangerous to life or was likely to cause death There is no opinion of the doctor on the injury report which is annexure No 2 In any event, if there would have been an. no compromise and trial would have concluded into order of conviction, it could not travel beyond the purview of Section 324 I.P.C. which is compoundable Reliance has been placed on the decision in the case Gopal Tiwari and Anr. v. State of Madhya Pradesh 1999 CLJ 172 paras 4 and 5 of the said decision are quoted below:

"4. Keeping in view the size of the injury; the part of the body on which it was inflicted; it was not vital part, it did not damage the heart or the lung, there was no repealed attack and in the absence of clear motive, it should be inferred that accused Gopal Tiwari had no intention or knowledge to cause death of Mukesh. The offence is not covered by Section 307 but it comes within the purview of Section 324, I.P.C. The charge u/s 324 /I.P.C.I is brought home to accused Gopal Tiwari and u/s 324/34 to accused Ramesh Tiwari.

5. Where in appeal conviction for non-compoundable offence is altered to that of a compoundable offence permission to compound can be granted. Ram Shankar v. State of U.P. The offence u/s 324, I.P.C. is compoundable with the permission of the Court. Considering the facts mentioned in para 2 of this judgment and the affidavit of the complainant to the effect that the parties have amicably settled the matter the permission to compound the offence is granted. It would be in the mutual interest of the complainant and the appellants and also in the interest of the society that they should forget the past and live peacefully as good and law-abiding citizens. That would remove the bitterness and rancor between them. It has been observed in Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others, , that finest hour of the justice is the hour, of compromise when parties after burying the hatchet reunited by a reasonable and just compromise. The complainant and the accused are granted permission to compromise the offence. It is expressed that they have compounded the offence."

Section 320 Cr.P.C. is relevant provision, which permits the compounding of the offences. However, Hon''ble Supreme Court had granted permission to compound the offences which are non-compoundable under the Code vide Devender V. State of M.P. 1994 SCC 145 , Union Carbide Corporation, etc., etc. Vs. Union of India, etc. etc., AIR 1988 2111 (SC)

In view of various decisions, :I find that especially in the facts of the present case, injuries are not such which could constitute offences u/s 307 I.P.C. In the circumstances, if the prosecution version is accepted, the 2 conviction would 2

end only one u/s 324 I.P.C., which is compoundable with the permission of the court. In view of the facts and circumstances of the present case, I dispose of this application with a direction to the concerned court to grant permission and accept the compromise in Sessions Trial No I 1105 of 1999 State Vs Rajpal and Anr. (supra), and pass a fresh orders in confirmation of the guidelines given above.