

(1999) 01 AHC CK 0004
In the Allahabad High Court
Case No : Criminal Revision No. 1213 of 1984

Sheo Bachan and Others

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 27-01-1999

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320(8)
Penal Code, 1860 (IPC) — Section 307, 324

Citation : (1999) 3 ACR 2798

Hon'ble Judges : R.K. Singh, J

Bench : Single Bench

Advocate : Amar Saran and S.K. Dubey, for the Appellant; Patanjali Misra, A.G.A. and Bipin Bihari, for the Respondent

Judgement

R.K. Singh, J.—Heard Mr. Amar Saran assisted by Sri S.K. Dubey, learned Counsel for the revisionists and Mr. Patanjali Misra, learned A.G.A. assisted by Mr. Bipin Bihari appearing for the complainant injured persons.

2. There are two arguments of Mr. Saran noted below:

(a) That the lower court record could not be received because of it being weeded out as per report received from the lower court noted in the order-sheet of the revision petition. So the revisionists should be acquitted following the view taken by this Court while deciding Criminal Revision No. 1218 of 1984 vide judgment dated 21.11.1997.

(b) That there is a joint compromise petition which has been verified by the Chief Judicial Magistrate. Ballia. The conviction has been recorded u/s 307, I.P.C. but the revisionists deserve the benefit of compromise as the offence can at best go u/s 324 I.P.C. which is a compoundable offence with permission of the Court. For this purpose Mr. Saran drew the attention of the Court about injury to Keshav as well as Phakir Chandra. He has argued that the injuries are of simple nature and none of the injuries is on the vital part of the body and there is no opinion

expressed that any of the injuries was sufficient to cause death in ordinary course of nature. In such circumstances the allegation should not constitute the offence punishable u/s 307, I.P.C. rather they should go u/s 324, I.P.C.

3. The learned Counsel appearing for the complainant injured and learned A.G.A. fairly conceded that since there has been a compromise, let good relationship prevail between the parties and so the benefit of compromise should be allowed.

4. So far as the first argument of Mr. Saran is concerned this Court is not in agreement with the view expressed in judgment of Criminal Revision No. 1218 of 1984 noted above. There is no law laid down in this judgment. The provision of Code of Criminal Procedure in the Chapter of revision, do not make mandatory provision for lower court record. In this legal background the non-availability of lower court record cannot be fatal for the prosecution while deciding the revision petition. So the first point is decided against the revisionists. This Court now takes the 2nd argument of Mr. Saran who lays much stress on the compromise petition brought on record which has been verified by the Chief Judicial Magistrate. The conviction has been recorded u/s 307, I.P.C. which is not compoundable. The incident is alleged to have taken place in 1982. That is more than 16 years old. The parties have compromised the dispute and it has been noted in the compromise that they have forgotten the bad blood prevailed among themselves. The injuries described in the impugned judgment dated 30.6.1984 passed by the 2nd Additional Sessions Judge, Ballia, in Session No. 159 of 1984 supports the argument of Mr. Saran that all the injuries caused by the fire-arm are of simple nature and there is no injuries to give any ingredient that they were likely to cause the death of injured persons. Considering this nature of the injury the offence comes u/s 324, I.P.C. which can be compromised by the parties. Since the compromise has been verified by the C.J.M. that all the injured and the accused persons came before him and put their signatures discloses that they have compromised the dispute, this Court think it proper in the interest of justice to grant permission to compromise.

5. Accordingly the parties are granted permission to compromise and the compromise petition verified by the C.J.M. on 21.1.1997 is accepted. The revisionists/accused persons are acquitted under the provisions of Section 320(8) of the Code of Criminal Procedure. They are discharged from liability of the bail bond.