

German vs State by

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SooperKanoon Citation : sooperkanoon.com/1893662

Court : Karnataka

Decided On : Sep-13-2024

Judge : Venkatesh Naik T

Appeal No. : CRL.A/346/2013

Appellant : German

Respondent : State by

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF SEPTEMBER, 2024 BEFORE THE
HON'BLE MR JUSTICE VENKATESH NAIK T CRIMINAL APPEAL
NO.346 OF 2013 BETWEEN:

1. GERMAN S/O. MUKTIYAS AGED ABOUT 23 YEARS RESIDING AT
NO.133 MUSKAM E-BLOCK SUSAI PALLYAM, ANDERSONPET K.G.F.
2. ISSAC @ SAGAI @ KANI S/O. FRANSIS AGED ABOUT 33 YEARS
RESIDING AT NO.133 MUSKAM E-BLOCK SUSAI PALLYAM,
ANDERSONPET K.G.F.

3. ROBERT

S/O. ISSAC AGED ABOUT 25 YEARS Digitally signed by RESIDING AT ISSAC KATEJE MOUNESHWARAPPA NAGARATHNA Location: HIGH SUSAI PALYAM, ANDERSONPET COURT OF K.G.F. KARNATAKA APPELLANTS (BY SRI RAHUL S. REDDY, ADVOCATE) AND:

1. STATE BY ROBERTSONPET POLICE REP. BY S.P.P. HIGH COURT OF KARNATAKA BENGALURU. -2-

2. DE-FACTO COMPLAINANT:

KANAL N.S. S/O.SADANANDA AGE.42 YEARS R/A. DR.V.K.RAM COMPOUND B.M.ROAD, ROBERTSONPET K.G.F., KOLAR. AS PER ORDER DATED: 13.09.2024. RESPONDENTS (BY SRI S. BALAKRISHNA, ADVOCATE FOR; SRI SATHYA NARAYANA M., ADVOCATE) THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) CR.P.C PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 28.02.2013 PASSED BY THE P.O., F.T.C., K.G.F. IN S.C.NO.121/2012 - CONVICTING THE APPELLANTS/ACCUSED FOR THE OFFENCE P/U/S 324, 504, 506 R/W 34 OF IPC. THIS CRIMINAL APPEAL IS COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER: CORAM: HON'BLE MR JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

The appellants-accused Nos.1 to 3 are before this Court aggrieved by the judgment of conviction and order of sentence dated 28.02.2013 passed in S.C.No.121/2012 on the file of Fast Track Judge, KGF, (for short referred to as 'trial court'), convicting accused No.1 for the offences punishable under Sections 324, 504 and 506 IPC r/w Section 34 IPC and accused Nos.2 and 4 for the offences punishable under Sections 324 and 506 read with 34 of IPC and to pay fine with default sentence. -3-

2. Heard learned counsel Sri. Rahul S Reddy for the

appellants-accused and learned HCGP Sri. Diwakar Maddur for respondent No.1 State and learned Counsel Sri. S. Balakrishna, representing Sri. Sathya Narayana M, for respondent No.2- defacto complainant.

3. Learned counsel for the complainant submitted that

the dispute between the complainant and accused persons has been compromised. The complainant and accused persons hail from same village, who are neighbours and they are known to each other and they submit that they are now leading a peaceful life and have settled down in the village.

4. Learned counsel for the appellants filed an application -

I.A.No.1/24 under Section 320 r/w 482 Cr.P.C. seeking permission to compound the offence punishable under Sections 324, 504 and 506 IPC and to acquit the accused persons after quashing the proceedings, in the interest of justice.

5. The application is accompanied by the affidavit filed by

the accused persons stating that the dispute between the complainant and themselves is amicably settled at the intervention of elders and no differences existed between the -4- two. The said application is also accompanied by the affidavit sworn to by respondent No.2-injured complainant Sri. Kanal N.S., who also reiterated the fact that the dispute between him and the accused persons is settled at the intervention of elders and they are living peacefully and hence seeks to allow the application by compounding the offences.

6. Per-contra, learned HCGP appearing for respondent No.1-State opposes the application stating that the offence under Section 324 IPC is not compoundable. Perused the entire material available on record.

7. Initially, accused Nos.1 to 3 were charge sheeted for

the offences punishable under Sections 143, 323, 324, 307, 34, 504 and 506(B) r/w 149 IPC. The trial court convicted accused Nos.1 to 3 for the offences punishable under Sections 324, 504 and 506 IPC and acquitted for the remaining offences. On enquiry, both accused persons and the complainant stated before

the Court that the dispute between them is amicably settled and they are living a peaceful life. -5-

8. The complainant Sri. Kanal N.S., is represented by Sri. S. Bala Krishna, learned counsel representing Sri. Sathya Narayana M, who has also filed vakalat on his behalf.

9. Learned counsel for the appellants relied on the

decision of the Hon'ble Apex Court in YOGENDRA YADAV AND OTHERS V/S STATE OF JHARKHAND AND ANOTHER reported in 2014(5) SCC (CrI) 267, wherein, the Hon'ble Apex Court relied on its earlier decision in GIAN SINGH V/S.

STATE OF PUNJAB reported in (2012) 10 SCC 303 and held

as under:-

Sections 482 and 320 - quashing of non- compoundable offences in view of the compromise between the parties. High Court can quash criminal proceedings under Section 482 even though offence alleged is non-compoundable if parties have amicably settled their dispute and victim has no objection. Further, this would depend on facts of each case. Offences which involve moral turpitude, grave offences like rape, murder cannot be effaced by quashing proceedings because they have harmful effect on society and are not restricted to two individuals or groups. Quashing of such offences may send a wrong signal to society. However, where High Court is convinced that offences are entirely personal in nature not affecting public peace and tranquility and quashing of proceedings on account of compromise would secure ends of justice, it may quash the same. In such cases, prosecution becomes lame and pursuing such lame prosecution becomes waste of time and energy and also likely to unsettle compromise and obstruct -6-

restoration of peace. On facts, in the criminal appeal before the Supreme Court, though offences under Sections 326 and 307 IPC are uncompoundable, but considering compromise petition filed by parties, and fact that they were neighbours and living peacefully, pending proceedings directed to be quashed. (Emphasis supplied)

10. Learned counsel also relied on the order passed by

the Coordinate Bench of this Court in CrI.A.No.2603/2012 dated 03.09.2020, wherein, the Coordinate Bench permitted the accused persons to compound the offences punishable under Sections 324, 325, 504, 506 and 307 IPC.

11. I have gone through the above decision in the light of the facts and circumstances of this case and also submissions made by learned counsel on both sides.

12. The appellants in the present case are convicted for

the offences punishable under Sections 324, 504 and 506 IPC. Sections 504 and 506 IPC are punishable as per Section 320 of CPC, but offence under Section 324 IPC is not compoundable. However, applying the dictum laid down in the above decision, the parties may be permitted to compound the offences in this appeal itself, otherwise, the parties will be driven to another -7- round of litigation by filing separate petition under Section 482 Cr.P.C. seeking quashment of the proceedings.

13. As could be seen from the records and also as

submitted by both the complainant and the accused persons, they hail from same village and they are neighbours and they are leading peaceful life in the same locality. Under such circumstances, proceeding to consider the matter on merits, without permitting the parties to compound the matter may give rise to disturbance of peace in both families. Moreover, the offences alleged against the accused persons is that they had assaulted the complainant with M.O.1 sword, torn his shirt and voluntarily caused hurt, intentionally insulted him and made criminal

intimidation to eliminate him. Therefore, the dispute between the parties was purely personal in nature and does not affect public peace or tranquility. Under such circumstances, permitting the parties to compound the offences and acquitting the accused persons will meet the ends of justice.

14. In view of the above, I do not find any legal

impediment to exercise power under Section 482 Cr.P.C. to set- aside the impugned judgment of conviction and order of -8- sentence and to permit the parties to compound the offences and also to acquit accused Nos.1 to 3 in the interest of justice. In view of the discussions made above, I proceed to pass the following:-

ORDER

1. The appeal is allowed.

2. I.A.No.1/24 filed by accused Nos.1 to 3 alongwith respondent No.2-defacto complainant Sri. Kanal N.S. under Section 320 r/w Section 482 Cr.P.C. is allowed.

3. The impugned judgment of conviction and order

of sentence dated 28.02.2013 passed in S.C.No.121/2012 by learned Fast Track Judge, KGF, is set-aside.

4. The appellants-accused Nos.1 to 3 are permitted to compound the offences punishable under Sections 324, 504 and 506 IPC.

5. The appellants are acquitted of the offences

punishable under Sections 324, 504 and 506 -9- IPC. However, the fine amount, if any, deposited by the appellants before the trial Court is ordered to be confiscated to the State as litigation expenses. Sd/- (VENKATESH NAIK T) JUDGE MN List No.: 1 Sl No.: 10