

Ex. _____

GJPM010036282025 	Received on :	08-10-2025		
	Registered on :	08-10-2025		
	Decided on :	30-07-2026		
	Duration :			
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IN THE COURT OF 4th ADDITIONAL SESSIONS JUDGE,
PANCHMAHALS AT GODHRA.

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CRIMINAL APPEAL No.104/25

Appellants :

1. Pradipbhai Dilipbhai Rajat
2. Shobhnaben Gulabbhai Rajat
3. Dilipbhai Gulabbhai Rajat
4. Ramilaben Dilipbhai Rajat

Residing at Gusar, Sarpanch Faliyu, Ta.- Godhra,
Dist.- Panchmahals.

VERSUS

Respondent :

The State of Gujarat, Gandhinagar.

Criminal Appeal under Sec. 415 of BNSS

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Appearance :-

Ld. Advocate Mr. J. M. Varia for the appellants
Ld. PP Mr. R. S. Thakor for the respondent

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:: JUDGMENT ::

1. By way of this appeal filed under Sec.415 of BNSS, the Appellants i.e. the Original Accused have challenged the Judgment of conviction recorded in Criminal Case No.1372/23, by which the Ld. Addl. Chief Judicial Magistrate, Godhra has convicted the appellants U/Sec.248(2) of Cr.P.C for the offence punishable under Sec.323, 114 of IPC and imposed sentence of simple imprisonment for Six months and fine for the sum of Rs.1,000/- to each of the appellants, failing which default sentence of simple imprisonment for One month.
2. The facts leading to the filing of this appeal can be briefly stated as under:

On 16-06-2022, at about 7:00 p.m., the accused persons have quarreled with the victim Bijliben; uttered abusive words to the victim; then after she was pushed down by the accused No.1 and when other victims Ramanbhai and Lalsingbhai went to rescue her; the accused No.1 inflicted blows of dangerous weapon (*narash*) on the head of the victims; grievously beaten them and thereby caused grievous injuries to the victim. Further, the accused persons have also threatened to kill them. Thereby, the accused have committed the offence punishable U/Sec. 323, 324, 504, 506(2), 114 of IPC and Sec.135 of B.P. Act. The complaint for the same was given by the complainant

at Kakanpur Police Station vide C.R. No.211/2022. On completion of the investigation, the charge-sheet was submitted against the accused persons, which was registered as Criminal Case No.1372/23 and after completion of trial, the Judgment was pronounced by the Ld. Trial Court on dt.17-09-2025 wherein the present appellants/accused are convicted by the Ld. Trial Court as mentioned above, whereas they are acquitted U/Sec.248(1) of Cr.P.C for the offence punishable under Sec.504, 506(2) of IPC and Sec.135 of G.P. Act.

3. On perusal of the impugned Judgment, it transpires that the Ld. Trial Court has recorded the plea of the accused persons *vide* Ex.4 to 7. The accused persons have pleaded not guilty and therefore the matter was kept for recording the evidence of the prosecution.
4. In order to bring home the allegations against the accused persons, the prosecution side has led following oral and documentary evidences, which can be narrated from the impugned judgment ;

Oral Evidence:

Sr. No.	Description	Exh.
PW-1	Deposition of complainant Bhemabhai Chandubhai Rajat	10
PW-2	Deposition of panch witness Prabhatbhai Kalubhai Rajat	12

PW-3	Deposition of panch witness Arjunsinh Bharatsinh Rajat	14
PW-4	Deposition of panch witness Vikramsinh Bhurabhai Rajat	16
PW-5	Deposition of witness Bijliben Jorjibhai Rajat	17
PW-6	Deposition of witness Ramanbhai Jorjibhai Rajat	18
PW-7	Deposition of witness Lalsinh Chandubhai Rajat	20
PW-8	Deposition of witness Savitaben Chandubhai Rajat	21
PW-9	Deposition of witness Mahipatsinh Dhulabhai Rajat	22
PW-10	Deposition of Dr. Ridhdhi Jayeshkumar Patel	23
PW-11	Deposition of Dr. Krunalkumar Ravjibhai Sharma	25
PW-12	Deposition of IO Ravikumar Abhesinh Bamaniya	28

Documentary Evidences:

Sr. No.	Description	Exh.
1.	Complaint	11
2.	Panchnama of place of offence	13
3.	Panchnama of muddamal recovery	15
4.	MLC Certificate	24, 26, 27
5.	Notification	29

5. The Ld. Trial Court has recorded further statement of the accused persons under Sec.313 of Cr.P.C., wherein the accused persons have denied the allegations leveled

against them and further stated that false complaint is filed against them. The accused persons were even asked whether they intend to depose themselves or to examine any witness, but they have denied for the same.

6. The Ld. Trial Court, having heard Ld. Advocates for both sides, found that prosecution remained succeed to prove the guilt of the Accused persons beyond all the reasonable doubt and therefore has convicted them U/Sec.248(2) of Cr.P.C. for the offence punishable under Sec.323, 114 of IPC, as mentioned above. Being aggrieved and dissatisfied with the impugned Judgment, present conviction appeal is preferred by the said accused persons.
7. It is pertinent to note here that, the appellants have filed the present appeal relied upon the grounds as mentioned in the appeal memo vide Para No.2. It is also required to note here that though the accused persons are acquitted U/Sec.248(1) of Cr.P.C for the offence punishable under Sec.504, 506(2) of IPC and Sec.135 of G.P. Act, neither the respondent - State nor the original complainant has challenged the Judgment of the Ld. Trial Court on the said aspect of acquittal and no any separate acquittal appeal is preferred by them. Therefore, it is hereby clear that the order of the Ld. Trial Court acquitting the accused persons for the offence punishable under Sec.504, 506(2) of IPC and Sec.135 of G.P. Act has not been challenged till now

by the prosecution side, hence, this appeal shall be determined qua the order of conviction recorded by the Ld. Trial Court.

8. Heard the Ld. PP for the opponent-State and Ld. advocate of the appellants, as well as, perused the contention raised in the appeal memo. After hearing the appeal, the matter was kept for the pronouncement of the Judgment, however, before pronouncement of the Judgment, the parties i.e. the appellants-accused persons and the original complainant have appeared before this Court on dtd.14-07-2026. Even the complainant and victims have voluntarily appeared through their private advocate Mr. N. M. Soni before this Court. The appellants i.e. original accused persons along with the complainant and all the victims have submitted an application to take the matter on board vide Exh.11. They have sought permission of this Court to compound the offence by submitting an application vide Exh.13 and with the permission of this Court, they have submitted compromise pursis vide Exh.14. This appellate Court has perused the said pursis, the contents of the compromise pursis is read over and explained to the parties and on acceptance of the same, it is taken on record. The parties have also identified their signature and accepted the fact that now they have no any dispute and they have compromised the matter and the victims have submitted that they have no objection if the appellants i.e. original

accused persons be acquitted and prayed to pass appropriate judicious order.

9. Considering the above factual aspects and submissions made on behalf of both the sides, according to this Court, the following issues are arisen :

Issues

- (1) Whether the parties should be permitted to compound the offence punishable u/s.323, 114 of IPC within the purview of Sec.320(5) of CrPC (Sec.359(5) of BNSS) in view of the application vide Exh.13 and compromise pursis vide Exh.14 ?
- (2) Whether the impugned Judgment passed by the Ld. Trial Court in Criminal Case No.1372/23 dated 17-09-2025 is required to be interfered with ?
- (3) What order ?

10. My findings on the above issues are as under :

- (1) In affirmative.
- (2) In affirmative.
- (3) As per final order.

REASONS

11. **Principle of Criminal Appeal :-**

Before we venture to decide the fate of this appeal, let us take the notice about scope and ambit of the Appellate Court while dealing with conviction appeal. The present

appeal is preferred under the provisions of Sec.415 of BNSS which provides for appeals from convictions. The clause (a) of sub-section (3) to Sec.415 says that save as otherwise provided in sub-section (2), any person convicted on a trial held by a Magistrate of the first class, or of the second class, may appeal to the Court of Sessions. In the instant case the accused is convicted by the Court of Ld. Additional chief Judicial Magistrate and so the present appeal is preferred before this Sessions Court.

Further the provisions related to powers of the Appellate Court is provided in Sec.427 of the BNSS. It provides for the powers that can be exercised by the Appellate Court in all sorts of appeal. It is required to refer and quote the relevant portion of the said provision which is essential for adjudication of this conviction appeal. The same is as under:

Sec.427: Powers of the Appellate Court.

After perusing such record and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and in case of an appeal under section 418 or section 419, the accused, if he appears, the Appellate Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may

1. in an appeal from an order of acquittal,
2. in an appeal from a conviction
 - (i) reverse the finding and sentence, and acquit or discharge the accused, or order him to be re-tried by

a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or
(ii) alter the finding, maintaining the sentence, or
(iii) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, but not so as to enhance the same;

Accordingly, it is clear that this Court while dealing with the adjudication process of the conviction appeal, this Court is duty bound to appreciate, re-appreciate and review the entire evidence on record, to scrutinize the correctness and legality of the impugned judgment of the Ld. Trial Court.

12. Issues No.1 & 2 :-

In the context of the present issue, it is required to note that the offence punishable u/s.323 of IPC is compoundable without the permission of the Court with the consent of the person to whom the hurt is caused. Moreover, when an offence is compoundable under the said section, the abetment of such offence may be compounded in like manner in view of Sec.320(3) of CrPC (Sec.359(3) of BNSS). However, it is pertinent to note here that as per the provision made under Sec.320(5) of CrPC (Sec.359(5) of BNSS), ***“when the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case***

may be, **before which the appeal is to be heard.**” Meaning thereby by virtue of this provision, this Appellate Court has power and jurisdiction to permit the compounding of the offence punishable u/s.323, 114 of IPC, at the appeal stage. In the present situation, it is required to refer the Judgment of Hon’ble Supreme Court in the case of **K. Kandasamy v/s. K.P.M.V.P. Chandrasekaran - 2005(4) SCC 349**, wherein for the offence punishable under Sec.500 of IPC, a joint application has been filed by the appellant and the respondent under the provision of Sec.320(5) of CrPC for compounding the offence, whereby the Hon’ble Supreme Court has granted the permission and the order is passed in terms of the settlement arrived between the parties. In view of the same, the appellants are acquitted of the said offence by the Hon’ble Supreme Court. Furthermore, it is required to refer another Judgment of Hon’ble High Court of Gujarat in the case of **Pintubha @ Harshadsinh Dilubhai Jadeja v/s. State of Gujarat - 2025(0) GUJHC 70023**, wherein during the pendency of the appeal against conviction and sentence for minor injuries sustained during a quarrel, the complainant and injured witnesses have sought to compound the offence for the offence punishable under Sec.323, 324, 447, 504, 506(2) of IPC, as well as, offence punishable under the provisions of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the Hon’ble High Court has granted permission to

compound the offence since all the parties have expressed no grievance and desired to settle the matter amicably. The Hon'ble High Court of Gujarat has considered the provision of Sec.320(5) of CrPC and granted the permission to compound the offence punishable under IPC, as well as, The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. In view of the said compromise, the appellants are acquitted of the said offence by the Hon'ble High Court of Gujarat.

Therefore, keeping in mind the above cited decisions, it can be said that this Court has power to allow the compounding the offence at the appellate stage by invoking the provisions of Sec.320(5) of CrPC (Sec.359(5) of BNSS). Moreover, at this juncture, it is also required to note that the parties are very poor and residing in the village areas and they are doing agriculture work. As stated in the compromise pursis vide Exh.14, the altercation between them took place in the year-2022 for the dispute of their land/plot and due to the same, the complaint was lodged. Now, the parties have amicably settled their issue permanently before the panchas of their village so, in the larger interest of all the parties concerned, as well as, to maintain law & order in the society and with the noble intention to maintain the peace and tranquility, permission should be granted to the parties to compound the offence punishable under Sec.323, 114 of IPC, for

which appellants were convicted. In view of the same, this appeal is required to allow accordingly.

In light of the discussion and reasons recorded herein above, the **Issues No. 1 & 2** are hereby answered in the “**Affirmative**”.

13. **Issue No. 3** :- Considering the discussions and conclusion arrived at in the above Issue No. 1 & 2, *qua* the present issue, this Court is of the certain view to pass the final order as under :

:: ORDER ::

1. The present Criminal Appeal is hereby ***allowed***.
2. Under the application vide Exh.13 and compromise pursis vide Exh.14, by invoking provision of Sec.320(5) of CrPC (Sec.359(5) of BNSS), the parties are hereby permitted to compound the offence punishable under Sec.323, 114 of IPC. Consequently, by the effect of Sec.320(8) of CrPC (Sec.359(8) of BNSS), the appellants are acquitted of the offence punishable under Sec.323, 114 of IPC with which they were convicted.
3. Consequently, the Judgment and order of conviction, passed by the Ld. Trial Court in

Criminal Case No. 1372/23 on 17-09-2025 *is hereby quashed and set aside* .

4. Record and Proceedings of Criminal Case No.1372/23 is to be remitted back immediately to the Ld. Trial Court, along with the copy of this Judgment.

Signed and Pronounced in the open Court today on this 30th day of July, 2026.

Date : 30-07-2026

Place : Godhra

(Raja Ranchhodbhai Patel)
4th Additional Sessions Judge,
Panchmahals at Godhra.
UIC No. GJ00922