

d/

SLP(Crl.)No. 3115 OF 2004
ITEM No.59

Court No.11

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 3115/2004

(From the judgement and order dated 08/03/2004 in CRLA 441/90
of The HIGH COURT OF M.P AT JABALPUR)

HALKE @ DEVIPRASAD

Petitioner (s)

VERSUS

STATE OF M.P.

Respondent (s)

(With Appln(s). for bail and exemption from filing O.T. and with Office Report)
With SLP(Crl.)No.3116/2004
(With Appln(s). for bail and exemption from filing O.T. and with Office Report)

Date : 09/08/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT
HON'BLE MR. JUSTICE C.K. THAKKER

For Petitioner (s)

Mr. Niraj Sharma, Adv.
Mr. Neeraj Srivastava, Adv.
Mr. Jai Mangalwadi, Adv.
Mr. Krishnanand Pandeya, Adv.
Mr. Vikrant Singh Bais, Adv.

For Respondent (s)

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeals are disposed of in terms of the signed order.

(SUKHBIR PAUL KAUR)
COURT MASTER

(VIJAY AGGARWAL)
COURT MASTER

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.829/2004
(Arising out of S.L.P.(Crl.)3115/2004)
WITH

CRIMINAL APPEAL NO. 856/2004
(Arising out of S.L.P.(Crl.) 3116/2004

HALKE @ DEVIPRASAD.....APPELLANT

VERSUS

STATE OF M.P.RESPONDENT

S.L.P. (CRL.) 3115/2004

Heard.

Leave granted.

The appellant who faced trial for an offence punishable under Sections 147, 148 and 307 read with Section 149 of the Indian Penal Code, 1860 (in short, I.P.C.) was acquitted by the trial court. An appeal was preferred with special leave by the State of Madhya Pradesh. The High Court accepted the prayer for compounding so far as the offence under Section 147 and 148 IPC are concerned. But having held that the offence for which the accused was to be convicted was under Section 326 IPC, it was held that the said offence is not compoundable. The High Court set aside the order of acquittal and

...2/-

-2-

convicted the appellant for offence punishable under Section 326 IPC and sentenced him to undergo rigorous imprisonment for six months. It is to be noted that an application to compound the offence was filed by the complainants and the accused persons but the same was turned down by the High Court on the ground that Section 326 IPC is not compoundable.

Learned Counsel for the appellant submitted that the parties have settled their differences and the complainant has no objection if the offence is compounded. It is pointed out that the offence even if the prosecution case is accepted in toto, is one under Section 325 IPC and not under Section 326 IPC.

We have heard learned Counsel for the accused-appellant the complainant, and learned Counsel for the State. We are of the view that on the background facts as noted by the trial court and the High Court, the offence is punishable under Section 325 IPC which is compoundable with the permission of the Court and if the person who is hurt in the case makes an application for compounding. That is the position here. Therefore, the conviction is altered to one under Section 325 IPC and the prayer for compounding is accepted.

The Appeal is disposed of accordingly.

S.L.P.(CRL.) NO.3116/2004

Heard.

Leave granted.

...3/-

-3-

The appellant who faced trial for an offence punishable under Sections 148 and 307 read with Section 149 of the Indian Penal Code was acquitted by the trial court. An appeal was preferred with special leave by the State of Madhya Pradesh. The High Court accepted the prayer for compounding so far as the offence under Section 148 IPC is concerned. But having held that the offence for which the accused was to be convicted was under Section 326 IPC, it was held that the said offence is not compoundable. The High Court set aside the order of acquittal and convicted the appellant for offence punishable under Section 326 IPC and sentenced him to undergo rigorous imprisonment for six months. It is to be noted that an application to compound the offence was filed by the complainants and the accused persons but the same was turned down by the High Court on the ground that Section 326 IPC is not compoundable.

Learned Counsel for the appellant submitted that the parties have settled their differences and the complainant has no objection if the offence is compounded. It is pointed out that the offence even if the prosecution case is accepted in toto, is one under Section 325 IPC and not under Section 326 IPC.

We have heard learned Counsel for the accused-appellant the complainant, and learned Counsel for the State. We are of the view that on the background facts as noted by the trial court and the High Court, the offence is punishable under Section 325 IPC which is compoundable with the permission of the Court and if the person who is hurt

...4/-

-4-

in the case makes an application for compounding. That is the position here. Therefore, the conviction is altered to one under Section 325 IPC and the prayer for compounding is accepted. The Appeal is disposed of accordingly.

.....J.

[ARIJIT PASAYAT]

.....J.
[C.K. THAKKER]

NEW DELHI
AUGUST 9, 2004