

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.509 OF 2014

[Arising out of Special Leave Petition (Crl.) No.371 of 2014]

Bharti

...Appellant

Vs.

State of Haryana & Anr.

...Respondents

O R D E R

1. Leave granted.
2. The appellant was convicted by the Sessions Judge, Faridabad in Sessions Case No. 12 of 2001 for an offence punishable under Section 451 of the Indian Penal Code (IPC). He was sentenced to suffer rigorous imprisonment for one year and a fine of Rs. 500/-, in default, to suffer further rigorous imprisonment for a period of two months. The appellant was also convicted under Section 354 of the IPC and sentenced to undergo rigorous imprisonment for one year and a fine of Rs. 500/-, in default, to further suffer rigorous imprisonment for two months. The substantive

sentences were ordered to run concurrently. Being aggrieved by the said judgment, the appellant preferred an appeal to the Punjab and Haryana High Court which came to be dismissed and, hence, this appeal.

3. During the hearing of this appeal, this Court was informed that the appellant and the complainant Smt. Mukesh w/o Shri Rakesh have entered into a compromise. The appellant filed an application for impleadment of complainant Smt. Mukesh w/o Shri Rakesh. On 27/1/2014 this Court permitted impleadment. Thus, the complainant Smt. Mukesh w/o Shri Rakesh is respondent No. 2 in the present appeal. Affidavit dated 3/10/2013 has been filed by the complainant stating that with the intervention of respectable persons of the village and relatives from both sides, the matter has been compromised between her and the appellant and now there is no dispute between them, at all. It is further stated that respondent No. 2 and the appellant are neighbours and are living peacefully and no untoward incident has taken place since 2000. It is further

stated that respondent No. 2 will have no objection if the FIR lodged by her and all the consequential proceedings arising out of the said FIR including the judgments rendered by the courts below against the appellant, are set aside. Respondent No. 2 has further stated that she is filing this affidavit without any pressure or coercion. Learned counsel for the appellant and respondent No. 2 have confirmed that the parties have entered into a compromise.

4. In the year 2000 when the offence was committed, Section 451 of the IPC was compoundable with the permission of the Court by the person in possession of the house trespassed upon. At that time Section 354 of the IPC was also compoundable with the permission of the Court by the woman assaulted to whom the criminal force was used. By the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009), Section 354 of the IPC was made non-compoundable. The question is, therefore, whether in view of the compromise this Court should permit compounding of the offence.

5. We notice from the judgment of the Sessions Court that in the Sessions Court affidavits were filed by respondent No. 2 and her husband stating that the matter was settled. The Sessions Court did not accept those affidavits and proceeded to convict the appellant. The High Court confirmed the conviction.

6. We are mindful of the fact that Section 354 of the IPC is, as of today, non-compoundable. But, as noticed by us, it was compoundable when the instant offence was committed with the permission of the court. Even then, we would have hesitated to permit compounding of the offence. But, facts of this case are very peculiar. Respondent No.2 and her husband have, even today, maintained their stand taken in the trial court that they have entered into a compromise with the appellant. As we have already noted, respondent No.2 has filed an affidavit to that effect in this Court. Compromise is, therefore, not an afterthought. Pertinently, the incident in question took-place way back in the year 2000. About 13 long years have gone-by. In her affidavit

respondent No. 2 has stated that the appellant is her neighbour and they are staying peacefully since 2000 till date. We are of the opinion that since the appellant and respondent No. 2 are neighbours it would be in the interest of justice to permit the parties to compound the offences. If the conviction is confirmed, the relations may get strained and the peace, which is now prevailing between the two families, may be disturbed. In the peculiar facts of this case, therefore, in order to accord quietus to the disputes between the appellant and respondent No. 2 and in the larger interest of peace, we permit the appellant and respondent No. 2 to compound the offences. Accordingly, offences under Sections 451 and 354 of the IPC are permitted to be compounded. The impugned judgment is set aside. The appellant is acquitted. The appellant-Bharti is in jail. The appellant-Bharti should be released forthwith, unless he is required in any other case.

7. The appeal is disposed of in the afore-stated terms.

.....J.
(RANJANA PRAKASH DESAI)

.....J.

(MADAN B. LOKUR)

NEW DELHI;
FEBRUARY 27, 2014.

SUPREME COURT OF INDIA



JUDGMENT