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HIRABHAI JHAVERBHAI
v.
STATE OF GUJARAT & ORS.
(Criminal Appeal No. 749 of 2010)

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APRIL 9, 2010

[J.M. PANCHAL AND SURINDER SINGH NIJJAR, JJ.]

Code of Criminal Procedure, 1973:

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s. 320(8) – Compounding of offence – Offence punishable u/s 324 IPC – Conviction and sentence of six months as imposed by trial court affirmed by High Court – In appeal before Supreme Court the victims impleaded as respondents – Affidavit filed stating that disputes between parties were settled and victims expressed their willingness to compound the offence – HELD: The offence was committed on 23.7.1986 on which date it was compoundable with permission of the Court – CrPC (Amendment) Act, 2005 which came into force w.e.f. 23.6.2006, making the offence punishable u/s 324 IPC as non-compoundable, is not applicable to the facts of the instant case – In view of the statement of the victims made in the affidavit and having regard to the facts and circumstances of the case, permission to compound the offence granted – Judgment of courts below, set aside – In view of s.320(8) Compounding of the offence shall have the effect of acquittal of the accused – Penal Code, 1860 – s.324.

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 749 of 2010.

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From the Judgment & Order dated 14.9.2006 & 9.11.2006 of the High Court of Gujarat at Ahmedabad in Criminal Appeal No. 517 of 1994 & Criminal Misc Application No. 12531 of 2006 in Criminal Appeal No. 517 of 1994.

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HIRABHAI JHAVERBHAI v. STATE OF GUJARAT & 499
ORS.

Meenakshi Arora for the Appellant.

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Hemantika Wahi, Shamik Sanjanwala, Jesal, Anurag
Sharma for the Respondents

The following Order of the Court was delivered

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O R D E R

Leave granted.

The instant appeal is directed against the judgment dated September 14, 2006, rendered by the learned Single Judge of Gujarat High Court in Criminal Appeal No.517 of 1994 by which the conviction of the appellant recorded under Section 324 I.P.C. and imposition of sentence of S.I. for six months and fine of Rs.250/- in default simple imprisonment of 15 days vide judgment dated April 30, 1994 passed by the learned Addl.Sessions Judge, Bhavnagar in Sessions Case No.131 of 1987 is confirmed. The appeal is also directed against judgment dated November 9, 2006 rendered by the learned Single Judge of High Court of Gujarat in Criminal Miscellaneous Application No.12531 of 2006 by seeking permission of the Court to compound offence punishable under Section 324 IPC is rejected.

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We have heard learned counsel for the appellant.

From the record it is evident that the incident in question took place on July 23, 1986. Pursuant to the order dated January 29, 2010 passed by this Court in the instant matter, the complainant and injured are impleaded as respondents and are represented through their learned counsel. They have filed affidavit stating that the disputes between the parties have been settled with the intervention of respectable persons of the society. They have also expressed their willingness to compound the offence. This Court finds that after coming into force of the Code of Criminal Procedure (Amendment) Act, 2005 from June

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- A 23, 2006 the offence u/s 324 IPC is made non-compoundable. However, in this case offence u/s 324 IPC was committed on July 23, 1986 on which date it was compoundable with the permission of the Court. As the Code of Criminal Procedure (Amendment) Act 2005 is not applicable to the facts of the case,
- B offence u/s 324 IPC would be compoundable with the permission of the Court. In view of the statement, made by respondent Nos.2 to 4 in their affidavit and having regard to the facts and circumstances of the case, permission to compound the offence deserves to be granted to the original complainant and the injured.
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- Hence, the appeal is allowed. The two judgments impugned in the appeal are set aside. The injured complainant and two other injured are permitted to compound the offence punishable under Section 324 IPC. In view of sub-section (8) of Section 320 of the Code of Criminal Procedure, the composition of offence u/s 324 IPC shall have the effect of an acquittal of the appellant with whom the offence has been compounded.
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R.P.

Appeal allowed.