

Neutral Citation No. - 2024:AHC-LKO:52806

Court No. - 15

Case :- CRIMINAL APPEAL No. - 699 of 2009

Appellant :- Vinod

Respondent :- State of U.P.

Counsel for Appellant :- Anil Kumar Yadav, Vimal Kishor Singh

Counsel for Respondent :- G.A.

along with

Case :- CRIMINAL APPEAL No. - 727 of 2009

Appellant :- Pramod Kumar

Respondent :- State of U.P.

Counsel for Appellant :- Anil Kumar Yadav, Vinay Kumar Verma

Counsel for Respondent :- G.A.

along with

Case :- CRIMINAL APPEAL No. - 770 of 2009

Appellant :- Devaki Nandan

Respondent :- State of U.P.

Counsel for Appellant :- A.P. Misra, Vinay Kumar Verma

Counsel for Respondent :- G.A.

along with

Case :- CRIMINAL APPEAL No. - 796 of 2009

Appellant :- Ram Saran

Respondent :- State of U.P.

Counsel for Appellant :- Manoj Kumar Verma, Abhishek Ranjan, Vimal Kishor Singh

Counsel for Respondent :- G.A.

along with

Case :- CRIMINAL APPEAL No. - 797 of 2009

Appellant :- Ram Singh

Respondent :- State of U.P.

Counsel for Appellant :- Manoj Kumar Verma, Abhishek Ranjan, Vimal Kishor Singh

Counsel for Respondent :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. The above-mentioned criminal appeals are connected with same crime number and for the sake of convenience are being disposed of by passing this common order.

2. Heard Shri Vimal Kishor Singh, learned counsel for the appellants in Criminal Appeal Nos. 699 of 2009, 796 of 2009 and 797 of 2009 while Shri Vinay Kumar Verma, learned counsel for the appellants in Criminal Appeal No. 727 of 2009 and 770 of 2009 as well as learned A.G.A. for the State and perused the record.

3. The instant Criminal Appeal under Section 374(2) Cr.P.C. has been preferred by the appellants- **Vinod, Pramod Kumar, Devaki Nandan, Ram Saran & Ram Singh** against judgment and order dated 18/19.03.2009 passed by learned Additional Sessions Judge/Fast Track Court No.31, District Barabanki in Sessions Trial No.479/2000 along with Sessions Trial No.263/2003 relating to Case Crime No.306/1992 under Sections 147, 148, 323/149 and 307/149 I.P.C., Police Station-Fatehpur, District- Barabanki, whereby the appellants, namely, **Vinod, Ram Saran, Ram Singh** have been convicted for committing offence under Sections 147, 148, 323/149, 307/149 I.P.C. and have been sentenced for six months' rigorous imprisonment pertaining to Section 147 I.P.C., six months' rigorous imprisonment, with regard to Section 323/149 I.P.C and three years' rigorous imprisonment along with fine of Rs. 1000/- in default clause. Appellants- **Pramod and Devaki Nandan** have been convicted for committing offences under Sections 147, 148, 323/149, 307/149 I.P.C. and have been sentenced for 6 Months Rigorous Imprisonment pertaining to Section 148 I.P.C., 6 Months Rigorous Imprisonment with regard to Section 323/149 I.P.C and with 5 years Rigorous Imprisonment along with fine of Rs. 2000/- in default clause.

4. The prosecution case in brief is that complainant as well as the accused persons were resident of same village. There was some old enmity between the parties. On 29.10.1992, the accused persons armed with illegal weapons reached the orchard of the complainant and started constructing a brick wall on which the complainant stopped them but they were annoyed and they unanimously started abusing the complainant and his other family members and started beating them too with '*lathi*' and '*danda*'. On alarm raised, the nearby villagers arrived at the spot and seeing them the accused persons fled away from the scene of crime.

5. On the basis of written report submitted by the first informant, the first information report was lodged as Case Crime No.306/1992 under Sections, 147, 148, 323/149 and 307/149 I.P.C., Police Station-Fatehpur, District-Barabanki.

6. The Investigating Officer during investigation visited the place of occurrence and prepared the site plan and even recorded the statement of witnesses and after completing the investigation submitted the charge sheet against the appellants under Section 147, 148, 149, 324, 427 and 307 I.P.C.

7. The charges against the appellants were framed under Sections 148, 323/149 and 307/149 I.P.C., to which, they denied and claimed trial.

8. The prosecution in order to prove its case before the trial court has presented P.W.-1/Siyaram, P.W.-2/Rajendra Prasad, P.W.-3/Dr. Rajendra Prasad, P.W.-4/ Dr. Mohd. Naseer Siddiqui, P.W.-5/Constable Rajendra Prasad Pandey, P.W.-6/Shatrohan, P.W.-7/Awadhesh Kumar and P.W.-8/Ram Kumar and also relied on other documentary evidence e.g. Injury reports of the injured persons, Chik F.I.R., Tehrir F.I.R., G.D, Kayami, Site Plan and charge sheet.

9. After closure of the evidence, statement of accused/appellants under section 313 Cr.P.C. was recorded by the trial court explaining the entire evidence and other circumstances, in which the appellants denied the

prosecution story and the entire prosecution story was said to be wrong and concocted.

10. Accused persons in their defence has also produced injury report pertaining to accused-appellant/Ram Singh and extract of 'khatauni'.

11. The trial court after appreciating the evidence available on record found the case of the prosecution proved beyond reasonable doubt and convicted the appellants for committing offences under Sections 147, 148, 323/149, 307/149 I.P.C. in the manner described in the 2nd paragraph of this judgment.

12. Aggrieved by the same, the appellants has preferred this appeal.

13. Learned counsels appearing for the appellants while drawing the attention of this Court towards the impugned judgment and order passed by the trial court, vehemently submits that the trial court has committed manifest illegality in appreciating the evidence available on record. It is ignored that there was a cross case of the alleged incident and, thus, the trial court has not discussed anything with regard to the availability of right of private defence to the appellants while it was a case where many injured witnesses did not support the case of the prosecution and become hostile and this aspect of the matter has not been considered in right perspective by the trial court and the case of the prosecution was not proved beyond reasonable doubt. Moreover, the injuries which were sustained by the injured persons was of simple nature and, therefore, Section 307 I.P.C. could not be attracted. It is submitted that under instructions learned counsel for the appellant is not pressing the appeal so far conviction of the appellants is concerned. However, they are aggrieved by the fact that the trial court while convicting the appellants under relevant penal sections did not even consider their release on probation which is mandatory, having regard to the provisions contained under Section 360 of the Cr.P.C. as well as Section 3 of the Probation of First Offenders Act, 1958, while it was evident and proved before the trial court that appellant- Ram Singh at that point of time was aged about 60 years, appellant- Bechelal was aged about 50 years, appellant- Ram

Dhani was aged about 70 years and Ram Saran was aged about 63 years and appellant- Badka was a lady who was aged about 60 years. Therefore, having regard to the evidence available against the appellants before the trial court and the manner in which the alleged offence has been committed and also keeping in view that they are not having any criminal antecedents, the discretion should have been exercised in their favour and they should have been released on Probation by giving benefit of First Offender Act and their sentencing may be deferred and, therefore, the trial court has committed manifest illegality in not releasing the appellants on probation of good conduct by not giving the benefit of Section 4 of the Probation of First Offenders Act, 1958.

14. Learned A.G.A. on the other hand opposes the submissions made by learned counsels appearing for the appellants on the ground that having regard to the manner in which the offence has been committed, the appellants are not entitled for any benefit under the Probation of First Offenders Act.

15. Having heard counsel for the parties and having perused the record, though, it has been specifically submitted before this Court that learned counsels for the appellants are not pressing the appeal on merits, but this Court in order to satisfy its judicial conscious and also in order to assess as to whether any illegality has been committed by the trial court in convicting the appellants in relevant penal sections have perused the judgment as well as the record of the trial court and found that though, some of the prosecution witnesses were declared hostile, may be as a result of the compromise arrived at between the parties but there were other witnesses as well as the informant, who was also injured, have supported the case of the prosecution and the trial court has discussed this aspect of the matter.

16. It is to be recalled that evidence of a witness, who has been declared hostile, is not completely washed away from the record and even after their impeachment under Section 154 of the Indian Evidence Act any part of the prosecution evidence remains reliable, the same may be

legally accepted and acted upon. Moreover, before the trial court, the evidence given by the prosecution witnesses was supported by the medical evidence, as there were medical injury reports pertaining to the injured persons. Therefore, the oral allegations, as has surfaced in the oral testimony of the witnesses were supported by the medical evidence and, thus, in the considered opinion of this Court, the case of the prosecution was proved beyond reasonable doubt and no illegality or to say any irregularity has been committed by the trial court in convicting the appellants in relevant penal sections.

17. Now coming to the question as to whether any illegality has been committed by the trial court in not considering Sections 360, 361 Cr.P.C. and 3, 4, 5 of the Probation of Offenders Act, 1958 at the time of sentencing, the record would reveal that while sentencing, the trial court has not considered the release of appellants on probation while it was the mandatory duty of the convicting court to consider as to whether the appellants/convicts may be released on probation more so when there is no evidence before the trial court of their previous conviction.

18. Sections 360 and 361 of the Code of Criminal Procedure are relevant for the purpose of considering the release of convicts for providing benefit of Probation of First Offenders Act and same are reproduced as under :-

"360. Order to release on probation of good conduct or after admonition.--(1) When any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during

such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that where any first offender is convicted by a Magistrate of the second class not specially empowered by the High Court, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by sub-section (2).

(2) Where proceedings are submitted to a Magistrate of the first class as provided by sub-section (1), such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

(3) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code (45 of 1860), punishable with not more than two years, imprisonment or any offence punishable with fine only and no previous conviction is proved against him, the Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

(4) An order under this section may be made by any Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) When an order has been made under this section in respect of any offender, the High Court or Court of Session may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set

aside such order, and in lieu thereof pass sentence on such offender according to law: Provided that the High Court or Court of Session shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(6) The provisions of sections 121, 124 and 373 shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.

(7) The Court, before directing the release of an offender under sub-section (1), shall be satisfied that an offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(8) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(9) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence and such Court may, after hearing the case, pass sentence.

(10) Nothing in this section shall affect the provisions of the Probation of Offenders Act, 1958 (20 of 1958), or the Children Act, 1960 (60 of 1960) or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.

361. Special reasons to be recorded in certain cases.--Where in any case the Court could have dealt with,--(a) an accused person under section 360 or

under the provisions of the Probation of Offenders Act, 1958 (20 of 1958); or (b) a youthful offender under the Children Act, 1960 (60 of 1960) or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders, but has not done so, it shall record in its judgment the special reasons for not having done so."

19. For convenience relevant Sections 3, 4 and 5 of The Probation of First Offenders Act, 1958 are also extracted hereunder:-

"3. Power of court to release certain offenders after admonition.--

When any person is found guilty of having committed an offence punishable under section 379 or section 380 or section 381 or section 404 or section 420 of the Indian Penal Code, (45 of 1860) or any offence punishable with imprisonment for not more than two years, or with fine, or with both, under the Indian Penal Code or any other law, and no previous conviction is proved against him and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence, and the character of the offender, it is expedient so to do, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him to any punishment or releasing him on probation of good conduct under section 4, release him after due admonition.

Explanation.--For the purposes of this section, previous conviction against a person shall include any previous order made against him under this section or section 4.

4. Power of court to release certain offenders on probation of good conduct.--

(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour: Provided that the court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond.

(2) Before making any order under sub-section (1), the court shall take into consideration the report, if any, of the probation officer concerned in relation to the case. 2

(3) When an order under sub-section (1) is made, the court may, if it is of opinion that in the interests of the offender and of the public it is expedient so to do, in addition pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the offender.

(4) The court making a supervision order under sub-section (3) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from intoxicants or any other matter as the court may, having regard to the particular circumstances,

consider fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender.

(5) The court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned.

5. Power of court to require released offenders to pay compensation and costs.-

(1) The court directing the release of an offender under section 3 or section 4, may, if it thinks fit, make at the same time a further order directing him to pay-

(a) such compensation as the court thinks reasonable for loss or injury caused to any person by the commission of the offence; and

(b) such costs of the proceedings as the court thinks reasonable.

(2) The amount ordered to be paid under sub-section (1) may be recovered as a fine in accordance with the provisions of sections 386 and 387 of the Code.

(3) A civil court trying any suit, arising out of the same matter for which the offender is prosecuted, shall take into account any amount paid or recovered as compensation under sub-section (1) in awarding damages."

20. A Division Bench of the Allahabad High Court in State of *Uttar Pradesh v. Misri Lal and others*, reported in MANU/UP/0515/1982 : 1982 CRI.L.J. 1420 held as under :-

"25-.....The application of Section 360 in U.P. was taken away by an Ordinance of the year 1975. The Ordinance was repealed and replaced by the Criminal P.C. (Uttar Pradesh Amendment) Act, No. 16 of 1976. This Act received the assent of the President on 30-4-1975 and published in the U.P. Extraordinary Gazette dated 1-5-1976. Section 12 of this Act repealed the Ordinance and laid down that notwithstanding such repeal, anything done or any action taken under the Ordinance shall be deemed to have been done or taken under the provisions of this Act as if this Act had come into force on November, 28, 1975. The learned trial judge decided the case on 2-2-1976. Section 10 of the Amending Act No. 16 of 1976 amended S.484 of the Code and inserted the following clause (e) after clause (d) :-

"(e) the United Provinces First Offenders' Probation Act 1938.....shall continue in force in the State of Uttar Pradesh and accordingly the provisions of Section 360 of this Code shall not apply to that State and the provisions of Section 361 shall apply with the substitution or reference to the Central Acts named therein by references to the corresponding Act in force in that State".

26-Section 361 lays down that where in any case the Court could have dealt with an accused person under S.360 or under the provisions of the Probation of Offenders Act, 1958, or a youthful offender under the Children Act, 1960 or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders, but has not done so, it shall record in its judgement the special reasons for not having done so.

27-It follows from this provision read with clause (e) of S.484 mentioned above, the Court is required to record special reasons for not extending the benefit of the provisions of the U.P. First Offenders' Probation Act, 1938."

21. Hon'ble Supreme Court in ***Ved Prakash Vs. State of Haryana***, MANU/SC/0256/1980 : 1980:INSC:223 : (1981) 1 SCC 447 : AIR 1981 SC 643 while discussing on the duty of Bench and Bar regarding

compliance of Section 360 Code of Criminal Procedure read with section 4 of Probation of Offenders Act, 1958, has held as under:-

"The offence, for which conviction has been rendered, is one which will be attracted by S. 360 or at any rate the Probation of offenders Act, 1958. The materials before us are imperfect because the Trial Court has been perfunctory in discharging its sentencing functions. We must emphasise that sentencing an accused person is a sensitive exercise of discretion and not a routine or mechanical prescription acting on hunch. The Trial Court should have collected materials necessary to help award a just punishment in the circumstances. The social background and the personal factors of the crime-doer are very relevant although in practice Criminal Courts have hardly paid attention to the social milieu or the personal circumstances of the offender. Even if S. 360 Cr.P.C. is not attracted, it is the duty of the sentencing Court to be activist enough to collect such facts as have a bearing on punishment with a rehabilitating slant. The absence of such materials in the present case has left us with little assistance even from the counsel. Indeed members of the bar also do not pay sufficient attention to these legislative provisions which relate to dealing with an offender in such manner that he becomes a non-offender. We emphasise this because the legislation which relate to amelioration in punishment have been regarded as 'Minor Acts' and, therefore, of little consequence. This is a totally wrong approach and even if the Bar does not help, the Bench must fulfil the humanising mission of sentencing implicit in such enactments as the Probation of offenders Act."

22. Thus provisions of Probation of First Offenders Act, 1958 shall be followed, in the geographical area where that has been made applicable and not Section 360 of the Cr.P.C. In this way enforcement of Probation of First Offenders Act in some particular area, thus excludes the applicability of the provisions of Section 360 of the Code in that particular area, however it will be the bounden duty of the Court concerned to assign special reasons for the cases which falls under Sections 3, 4 and 5 of the Probation of Offenders Act, 1958 as to why the court is not proceeding to grant the benefit of Probation of Offenders Act, as provided under Section 361 of the Cr.P.C.

22. Coming to the point of desirability of extending the benefit of Probation Act to the Accused/appellants, in ***Sitaram Paswan and Anr v. State of Bihar, reported in MANU/SC/0574/2005 : (2005) 13 SCC 110 : AIR 2005 SC 3534*** Hon'ble Supreme Court held as under:-

"For exercising the power which is discretionary, the Court has to consider circumstances of the case, the nature of the offence and the character of the offender. While considering the nature of the offence, the Court must take a realistic view of the gravity of the offence, the impact which the offence had on the victim. The benefit available to the accused under Section 4 of the Probation of Offenders Act is subject to the limitation embodied in the provisions and the word "may" clearly indicates that the discretion vests with the Court whether to release the offender in exercise of the powers under Section 3 or 4 of the Probation of Offenders Act, having regard to the nature of the offence and the character of the offender and overall circumstances of the case. The powers under Section 4 of the Probation of Offenders Act vest with the Court when any person is found guilty of the offence committed, not punishable with death or imprisonment for life. This power can be exercised by the Courts while finding the person guilty and if the Court thinks that having regard to the circumstances of the case, including the nature of the offence and the character of the offender, benefit should be extended to the accused, the power can be exercised by the Court even at the appellate or revisional stage and also by this Court while hearing appeal under Article 136 of the Constitution of India."

23. In ***Mohd. Hashim v. State of U.P and Others;*** MANU/SC/1574/2016 : 2016:INSC:1066 : AIR 2017 SC 660 : (2017) 2 SCC 198, Hon'ble Supreme Court opined as under:-

"20-.....In Rattan Lal v. State of Punjab, MANU/SC/0072/1964 : 1964:INSC:116 : AIR 1965 SC 444. Subba Rao, J., speaking for the majority, opined thus:-

"The Act is a milestone in the progress of the modern liberal trend of reform in the field of penology. It is the result of the recognition of the doctrine that the object of criminal law is more to reform the individual offender than to punish him. Broadly stated, the Act distinguishes offenders below 21 years of age and those above that age, and offenders who are guilty of having committed an offence punishable with death or imprisonment for life and those who are guilty of a lesser offence. While in the case of offenders who are above the age of 21 years absolute discretion is given to the court to release them after admonition or on probation of good conduct, subject to the conditions laid down in the appropriate provisions of the Act, in the case of offenders below the age of 21 years an injunction is issued to the court not to sentence them to imprisonment unless it is satisfied that having regard to the circumstances of the case; including the nature of the offence and the character of the offenders, it is not desirable to deal with them under Sections 3 and 4 of the Act."

24. It is to be recalled that the sentencing part of the judgment of the criminal court is independent of the conviction part of the judgement and various relevant factors are required to be considered by the trial court for inflicting appropriate and proportionate punishment and vide Sections 360 and 361 of the Cr.P.C. it is mandatory for the trial court to have seen as to whether the benefit of Probation of Offenders Act, 1958 may be extended to the accused persons having regard to the manner in which the offence has been committed and the evidence which is available against the accused persons/convicts.

25. Having regard to the above legal position as well as the substantive sections of the Cr.P.C. and Probation of First Offenders Act, 1958, the facts of the instant case are to be appreciated in order to assess as to whether the Probation of First Offenders Act could be extended to the appellants before this Court.

26. There cannot be any doubt in the proposition that the incident in question had occurred on 29.10.1992 i.e. about 32 years ago. The trial has taken 17 long years to conclude. Many appellants have died in

between. Since the reporting of the alleged incident on 29.10.1992, there is nothing on record which may suggest that any further incident had occurred between the parties. Thus, this Court may safely presume that after the alleged incident the accused persons as well as the informant and other injured persons are living in peace.

27. It is also to be recalled that it is a case where many prosecution witnesses including the injured witnesses did not support the case of the prosecution and became hostile. Simple injuries are stated to have been sustained by the injured persons. The cumulative effect of these facts and circumstances, in the considered opinion of this Court, would be that the benefit of Probation of First Offenders Act should have been extended to the appellants. It is also brought in the knowledge of this Court that co-convicts, namely, Heeralal, Dinesh, Smt. Parsana, who have filed criminal appeal no. 771 of 2009 against the impugned judgment and order, have been given the benefit of Probation of First Offenders Act and, therefore, similar benefit be also extended to the instant appellants.

28. Considering all the facts and circumstances of the case, this Court is of the considered view that the benefit of Probation of First Offenders Act, 1958 may be provided to the instant appellants.

29. In view of above, the appeal preferred by the appellants- **Vinod, Pramod Kumar, Devaki Nandan, Ram Saran & Ram Singh** is **partly allowed** while the conviction of the appellants in Criminal Appeal Nos.699 of 2009, 796 of 2009 and 797 of 2009, 727 of 2009 and 770 of 2009, under penal sections 147, 148, 323/149, 307/149 I.P.C., as has recorded by the trial court is **maintained**.

30. However, their sentencing is **modified** in terms that they are given benefit of Section 4 of the Probation of First Offenders Act, 1958 and they are released on probation **for two years** to maintain peace and good behaviour and in case of violation of the bond they may be asked to serve the sentence, as imposed by the trial court.

31. It is further provided that the appellants within 30 days from today shall file their personal bond and two sureties of the amount of Rs.

25,000/- before the District Probation Officer, Barabanki and shall maintain peace and good behavior during the period of two years from today. In default, they would serve the sentence, as imposed by the trial court.

32. In case of breach of any of the aforesaid conditions, appellants will subject herself to undergo the sentence.

33. Let the copy of this order as well as the lower court record, if received, be transmitted to the concerned Trial Court, forthwith for necessary compliance.

Order Date: 01.08.2024

Praveen/-