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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 22.07.2019

+ CRL.REV.P. 316/2019

RAMWATI

..... Petitioner

versus

THE STATE GOVT OF NCT OF DELHI Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Pradeep Kumar Saini, Advocate.

For the Respondent : Ms. Meenakshi Dahiya, APP for the
State.
SI Vinod Bhati, PS Kalkaji.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

**CRL.REV.P. 316/2019 & CrI.M.A.10202/2019 (for release after
admonition or on probation)**

1. Petitioner impugns judgment dated 07.12.2018, whereby, appeal of the petitioner, impugning order of conviction dated 01.09.2018 and order on sentence dated 11.09.2018, has been dismissed.

2. Petitioner has been convicted for an offence under Sections 356/34 IPC and Sections 379/34 IPC and sentenced to undergo 2

years rigorous imprisonment for the offence under Sections 356/34 IPC and 3 years rigorous imprisonment for the offence under Sections 379/34 IPC.

3. Subject FIR was registered on the complaint that when the complainant had gone to offer prayers at Kalkaji Temple, one lady (the petitioner) broke the gold chain worn by her mother and handed over the chain to another person who was accompanying her. Said person fled from the spot, however, the petitioner was caught and produced before the police.

4. The Trial Court has found that the prosecution has been able to prove the case beyond reasonable doubt and had produced apart from the complainant, the victim - mother of the complainant, as witnesses.

5. On perusal of the record, I am satisfied that the impugned order on conviction does not warrant any interference.

6. Learned counsel for the petitioner submits that the petitioner has four children – two daughters, one minor son living with her and one son, who has fallen in bad company, has left home. He further submits that the husband of the petitioner is also a drunkard and off and on comes home. It is contended that the petitioner, apart from the subject case, is not involved in any other case and is the only person who can take care of the two unmarried daughters as well as the minor son as her husband does not take care of the family. He prays that the

petitioner be granted benefits of the Probation of the Offenders Act.

7. Nominal Roll of the petitioner has been received, which indicates that the petitioner has undergone nearly 11 months of incarceration and the unexpired portion of the sentence is 2 years 1 month and 7 days.

8. Report has also been received from the Probation Officer. The same is taken on record.

9. As per the report of the Probation Officer, the conduct of the petitioner in jail is satisfactory and has reflected non-toxicant habits and normal social behaviour. The inquiries from the neighbours showed that they had reported favourably in favour of the petitioner. Even the family members showed positive attitude towards the petitioner and wanted the family to be reunited.

10. The Probation Officer has reported that the persons living in the locality belong to poor/low economic strata. He has recommended favourably in favour of the petitioner and for considering for grant of probation in view of the totality of circumstances and good conduct.

11. The Probation Officer has reported that she may not be a threat to society and can look after her unmarried daughters and son so that the family bonding could be re-strengthened.

12. Reliance may be had to the decision in *Rattan Lal vs. State of*

Punjab: AIR 1965 SC 444, wherein the Supreme Court noted the philosophy behind the grant of probation:-

“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.....”

13. Court has to consider the circumstances of the case, nature of offence and character of the offender while exercising the power which is discretionary. 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 Court even at appellate or Revisional stage.¹

14. Though the petitioner has been convicted under Sections 356/34 IPC and Sections 379/34 IPC but in the facts and circumstances of the present case and after considering the nature of the offence, the character of the offender, the report of the Probationary Officer, the petitioner herein leading a disciplined life on the reformed path and having a fixed place of abode, I am of the view that this is a fit case for extending the benefit of Section 4 of Probation of Offenders Act to the petitioner.

¹ Sitaram Paswan v. State of Bihar; AIR 2005 SC 3534

15. Therefore, while confirming the conviction of petitioner under Section 356/34 IPC and Sections 379/34 IPC of IPC, it is directed that she be released on probation on entering into a bond, within a period of two weeks from today, in the sum of Rs. 15,000/- with one surety of like amount, before the concerned trial Court, for keeping peace and good behaviour for a period of one year. In case petitioner does not maintain good conduct during the period of probation then she shall be liable to undergo the substantive sentence as awarded by the Trial Court.

16. Applications and the Petition are disposed of in the above terms.

17. Order *Dasti* under signatures of the Court Master.

JULY 22, 2019
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SANJEEV SACHDEVA, J