

16.07.2025

Sl. no. 95

Ct. No. 25

P.M.

C.R.R. 1289 OF 2025
Mantu Lal Das @ Mantu Das
Vs
The State of West Bengal.

Mr. Arnab Chatterjee,
Mr. Abhinaba Mukherjee
... for the Petitioner
Md. Anwar Hossain
Mr. Nirupam Dhali
... for the State

The present petition has been filed challenging the impugned order passed by learned Additional Sessions Judge, 4th Court at Tamluk, Purba Medinipur in Criminal Appeal No. 32 of 2024 whereby learned Additional Sessions Judge dismissed the appeal filed by the present petitioner challenging the order or judgment and conviction recorded by the Court of learned Judicial Magistrate, 2nd Court, Tamluk, Purba Medinipur in G.R. Case 40 of 1998. Learned Judicial Magistrate vide impugned judgement dated 22nd August, 2024 recorded conviction of petitioner under Section 324 of the Indian Penal Code and sentenced the petitioner to 12 months imprisonment and pay a fine of Rs. 5,000/- in default of payment the petitioner was directed to further imprisonment for another fifteen days.

Learned counsel for the petitioner at the outset submits on instruction that the petitioner does not want to challenge the conviction recorded against him under Section 324 I.P.C..

However, learned counsel submits that alleged incident had taken place in 1998 and petitioner has already spent 27 years in contesting the present case.

Learned counsel submits that the petitioner is now 60 years of age and there is no other criminal antecedent against the petitioner.

Learned counsel for the petitioner submits that benefit of probation may be extended to the petitioner.

Learned counsel for the State fairly submitted that an appropriate order may be passed in this regard.

Section 401 of BNSS Act which is corresponding to Section 360 of the Criminal Procedure Code provides that if a person not under 21 years of age is convicted of offence with fine only or imprisonment of seven years or less and no previous conviction is proved against the offender, the Court may after taking into account the age, antecedents of the offender and the circumstances in which offence is committed may extend the benefit of

probation of good conduct, if it finds so expedient. The Courts have time and again taken a consistent view that in sentencing reformatory theory should be brought into play, if it is helpful in bringing the offender into the mainstream. The concept of deterrent punishment may not be applicable in all facts and circumstances. The petitioner herein is of 60 years of age. There is no criminal antecedent. There is nothing on record to suggest that petitioner has not attended the trial regularly. Petitioner has remained on bail throughout and has never misused the liberty. Thus this court considers that taking into account the age, antecedents of the offender and other attendant circumstances it would be expedient and in the interest of justice to extend the benefit of probation to the petitioner. The fact that petitioner has remained on bail during the entire course of trial indicates that the petitioner has fixed place of abode.

Thus taking into account the facts and circumstances of this case the conviction under Section 324 of IPC against the petitioner is upheld. However the order on sentence is modified to the extent that the petitioner be released on probation on his entering into a bond of Rs. 10,000/- with two sureties of like amount each, one of whom shall be

local, to the satisfaction of learned Judicial Magistrate, 2nd Court, Tamluk PUrba Medinipur with a direction to maintain to keep the peace and good behavior during this period. In case the petitioner violates the peace and good behaviour he may be called upon during such period to appear and receive sentence.

This petition is disposed of.

Trial Court record may be sent down.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Dinesh Kumar Sharma, J.)