



2025:DHC:11360



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IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on : 11th December, 2025******Date of Decision: 15th December, 2025***

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CRL.A. 419/2003 & CRL.M.A. 7671/2024**ASHOK KUMAR & ORS.****.....Appellants**

Through: Mr. Kanhaiya Singhal, Mr. Prasanna, Mr. Ajay, Mr. Pulkit Jolly, Mr. Rishabh Bhardwaj, Ms. Nivedita Tiwari, Mr. Shaswat Tiwari, Ms. Avantika Shankar, Mr. Rhythm Bharadwaj, Mr. Kanav Gupta and Ms. Shatakshi Singh, Advocates for Appellant No.1 along with Appellant No.1 in person.

Mr. Vikas Arora and Ms. Radhika Arora, Advocates for Appellant Nos.2 and 3 along with Appellant Nos. 2 and 3 in person.

versus**STATE (GOVT. OF NCT OF DELHI)****.....Respondent**

Through: Mr. Mukesh Kumar, APP for State with Mr. Sunil Singh Rawat, Mr. Arsalan Naik, Mr. Naresh Kumar Dagar, Mr. Siddharth Goyal and Mr. Aashish Kumar, Advocates along with SI Sanjay Dahiya, PS-Mehrauli. Ms. Shivani Bist, Probation Officer, Department of Social Welfare.

CORAM:**HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA****JUDGMENT**

1. By way of the present appeal, the appellants seek to assail the judgment dated 31st May, 2003 and the order on sentence dated 3rd June, 2003, passed



by the learned trial Court arising out of the FIR bearing No. 78/2000 registered at Police Station - Mehrauli.

2. *Vide* the impugned judgment, the appellants were held guilty for committing the offence punishable under Section 149 r/w Section 147/186/332/353/323 and under Section 143 of the Indian Penal Code (hereinafter “IPC”) and *vide* the impugned order on sentence, the appellants were sentenced to undergo Rigorous Imprisonment for a period of one year each along with a fine of Rs. 5000/- each, and in default thereof, to further undergo Simple Imprisonment for a period of three months each. They were further sentenced to undergo Rigorous Imprisonment for three months each under Section 143 IPC. All sentences were directed to run concurrently.

3. The appellants were charged under Sections 147/186/332/353/323/308 IPC read with Section 149 IPC and for the substantive offences under Section 308 IPC and under Section 147 IPC and 143 IPC on the allegations that on 2nd February, 2000, at about 1:30 pm, between Chhatarpur enclave and Maidan Gari, New Delhi, they were members of an unlawful assembly, and the common object of which was to prevent demolition being carried out by DDA. In pursuance of that common object, they committed rioting and obstructed public servants in discharge of their public functions, and caused hurt to them. The appellants pleaded not guilty and claimed trial.

4. The prosecution, in order to prove its case has examined twenty-five witnesses. The statements of the appellants were recorded under Section 313 Cr.P.C., wherein the appellants had denied all incriminating evidence and pleaded innocence and claimed false implication. The trial resulted in



conviction, as aforesaid. Being aggrieved and dissatisfied, the present appeal has been preferred by the appellants. The appeal qua the appellant no. 4 namely, Gulab Singh and appellant no. 5 namely, Gurmeet Singh has been abated vide order dated 2nd September, 2013 and 2nd May, 2024, respectively.

5. Learned Counsels for the appellants have submitted, on instructions, that the appellants are remorseful and, being fully aware of the consequences, do not wish to press the present appeal on merits and are limiting their appeal for the modification of the order on sentence for release of the appellants on probation.

Per contra, learned APP for the State has argued that the trial Court has passed the order on sentence after considering the material on record and there is no infirmity in the said order.

6. I have heard the learned Counsels for the appellants and learned APP for the State and have examined the record.

7. Since the appellants have chosen not to press the present appeal on merits with respect to their conviction, this Court has not interfered with the findings of the conviction recorded by the trial Court and accordingly, the impugned judgment is upheld.

8. Pursuant to the directions of this Court, a Social Investigation Report of the appellants has been placed on record by the Probation Officer. As per the report, the appellant no. 1 namely, Ashok Kumar, is 67 years of age and resides in Delhi with his wife and three sons. He was earlier employed as a supervisor but retired approximately five years ago and presently has no source of income. The behaviour of the appellant with his family members and with neighbours is peaceful and cordial. No past criminal record has



been found against the appellant. The appellant has suffered socially, mentally, economically throughout the period of trial and there are good chances of his reformation.

Appellant No. 2 namely, Atar Singh, is 76 years old and resides in Delhi with his wife. He has 5 children, 3 daughters and 2 sons. He is a retired CISF Jawan and receives a monthly pension of Rs. 17,000/-. He has been suffering from cardiac issues since 1999, and is also a diabetic. The behaviour of the appellant with his family members and with neighbours is reported to be satisfactory. He has no previous criminal record. The report reflects that he too has suffered socially, mentally, economically throughout the period of trial and there are good chances of his reformation.

Appellant No. 3 namely, Pradeep Kumar, aged 58 years, resides in Delhi with his second wife and two sons from his first marriage. He is working as an electrician and earns approximately Rs. 15,000/- per month. His conduct is described as peaceful and cordial and he has no past criminal record. The report indicates that he has also endured social and financial difficulties on account of the long span of the trial. It concludes that there are strong prospects for his rehabilitation and reintegration into the society.

9. Fine has already been deposited by the appellants. The present case relates to an incident which has occurred 25 years ago while the impugned judgment itself was delivered nearly 22 years ago. The appellants would suffer undue hardship if incarcerated at this stage.

10. The object of the Probation of Offenders Act has been emphasized by the Hon'ble Supreme Court in Lakhvir Singh etc. vs. State of Punjab, (2021) SCC OnLine SC 25 as follows:

“6. We may notice that the Statement of Objects and Reasons of



the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

Also, the Hon’ble Supreme Court in *Chellammal & Anr. vs. State represented by the Inspector of Police*, 2025 SCC OnLine SC 870, has reiterated the legal position with respect to the grant of probation. The relevant observations are as under:

“28. Summing up the legal position, it can be said that while an offender cannot seek an order for grant of probation as a matter of right but having noticed the object that the statutory provisions seek to achieve by grant of probation and the several decisions of this Court on the point of applicability of Section 4 of the Probation Act, we hold that, unless applicability is excluded, in a case where the circumstances stated in subsection (1) of Section 4 of the Probation Act are attracted, the court has no discretion to omit from its consideration release of the offender on probation; on the contrary, a mandatory duty is cast upon the court to consider whether the case before it warrants releasing the offender upon fulfilment of the stated circumstances. The question of grant of probation could be decided either way. In the event, the court in its discretion decides to extend the benefit of probation, it may upon considering the report of the probation officer impose such conditions as deemed just and proper. However, if the answer be in the negative, it would only be just and proper for the court to record the reasons therefor.”

11. The power to grant probation has to be exercised after keeping in mind the character of the offender, the nature of the offence and the overall circumstances of the case. The main object to grant probation to the



offenders is to facilitate their reintegration into the society and aiding in their reformation.

12. After considering the above discussed mitigating facts and circumstances, social investigation report and the law laid down by the Hon'ble Supreme Court, this Court is of the opinion that this is a fit case for the release of the appellants on probation. Accordingly, while maintaining the conviction of the appellants, the substantive sentence awarded vide order dated 3rd June, 2003 is modified to the extent that the appellants are directed to be released on probation of good conduct on their furnishing a bond in the sum of Rs. 10,000/- each with one surety in the like amount to the satisfaction of the concerned trial court to be filed within 15 days from today, for a period of one year and to appear and receive sentence when called upon during the said period and in the meantime to keep peace and be of good behaviour. However, the sentence of fine is maintained.

13. Accordingly, the appeal is partly allowed in the above terms. Pending application(s), if any, stand disposed of.

14. A copy of this judgment be communicated forthwith to the concerned Trial Court for information and necessary compliance.

RAJNEESH KUMAR GUPTA
JUDGE

DECEMBER 15, 2025/sds/tp