



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

% Decided on : 29.07.2025

+ **CRL.A. 178/2020 & CRL. MA 3310/2020**

STATE OF NCT OF DELHIAppellant
Through: Mr. Pradeep Gahalot, APP for State
with SI Deepak Kumar PS Jahangir
Puri, Delhi.

versus

UPENDER & ORS.Respondents
Through: Mr. Rajender Yadav and Mr. Vijay
Kumar, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeal filed under Section 377 Cr.P.C, the State, being aggrieved by the inadequacy of sentence imposed on the respondents by the Trial Court, seeks enhancement of the same.
2. Pertinently, the respondents faced trial in FIR No.873/15, registered at P.S. Jahangir Puri, Delhi under Sections 308/323/427/34 IPC and were convicted on 10.10.2019, for the offence punishable under Sections 308/323/427/34 IPC.

Vide order on sentence dated 21.10.2019, the Trial Court, while taking into account the time spent in custody and other mitigating factors, granted benefit of Section 4 of the Probation of Offenders Act, and respondents were directed to be released on furnishing a probation bond for a period of one year for a sum of Rs.10,000/- with one surety of like amount.



They were further directed to pay compensation of Rs.10,000/- each. Further, out of total compensation amount of Rs.70,000/-, a sum of Rs.10,000/- each was directed to be released to all the victim/injured persons namely PW-5/Afroz, PW-9/Naved, PW-3/Saved, PW-7/Rubiya, PW4-/Shobhi and PW-8/Noor in equal proportion. The remaining amount of Rs.10,000/- was directed to be deposited with the State Exchequer under Section 5 of the Probation of Offenders Act.

3. Learned APP for the State contends that the testimonies of the injured persons duly establish the identity and the role of each of the respondents in the commission of offence. The respondents have been convicted under Section 308 IPC. Some of the victims have received injury on their heads and the weapons used in commission of offence were hockey sticks, iron rods and *dandas*. Moreover, the injuries were also corroborated by the MLCs duly proved by testimony of PW6. He thus contends that the Trial Court ought not to have granted benefit of Section 4 of the Probation of Offenders Act.

4. Learned counsel for the respondents, on the other hand, states that the respondents have not assailed the judgment on conviction and states that the parties were neighbors and two of the respondents are women. As per the prosecution's case, the injuries received by the injured were opined to be simple in nature. He, however, states on instructions of the respondents, who are present in the court, that each of the respondents volunteers to enhance the amount of compensation from Rs.10,000/- to Rs.25,000/-.

5. Briefly noted, facts as revealed from the testimonies of the witnesses are that on 30.09.2015, at about 3:45 PM, in front of *Jhuggi* No.500/22, *Lakhi Park, Jahangirpuri, Delhi*, the complainant-Saved (PW-3) saw that



the respondent/*Upendar* was quarrelling with complainant's wife *Shobhi* (PW-4), *Afroz* (PW-5) and *Rubiya* (PW-7). The respondent/*Satender* was having an iron rod and hit *Afroz* (PW-5) on her head. Further, respondent/*Upendar* also gave beatings to *Afroz* with hockey sticks. The complainant further stated that when he, his brother *Naved* (PW-9), his father and sister *Noor* (PW-8) tried to rescue the aforesaid persons, the respondent/*Upendar* hit the complainant on his head with a hockey stick. He further stated that all the respondents were holding iron rods, hockey sticks and *dandas* in their hands.

6. A perusal of the impugned order on sentence would reveal that the Trial Court took into consideration the factum of injury being opined to be simple in nature and that the quarrel took place between the parties, who were neighbours, on account of the construction and use of a toilet. It further noted the factum of the custody period of the accused persons, which was around two weeks. The incident pertains to the year 2015. All the respondents belong to the poor-strata of society and work either as labourers or small-time technicians. Each of them stated that their family comprises of old-aged persons and minor children.

7. Learned APP, on instructions, states that after the passing of the order, none of the conditions of the probation were violated, and the respondents have also not been found involved in any other case.

8. This court is of the considered view that since the offence pertains to the year 2015 and that the parties were neighbours, the ends of justice would be met if the compensation is enhanced to Rs.25,000/- per respondent, which they undertake to deposit within four weeks from today. The compensation so deposited alongwith earlier compensation, if not already



withdrawn, would stand released to the injured, in equal proportion by the Trial Court.

9. The appeal is disposed of along with the pending application in the aforesaid terms.

MANOJ KUMAR OHRI
(JUDGE)

JULY 29, 2025/pmc
(corrected & released on 07.08.2025)