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

+ **CRL.A. 247/2022**

STATE

.....Appellant

Through: **Mr. Aashneet Singh, APP with SI
Sahil, PS Karol Bagh**

versus

OM PRAKASH & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

27.01.2025

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1. This is an application seeking leave to appeal to challenge the judgment dated 22.10.2019 passed by the learned ASJ-II, (Central), Tis Hazari Courts, Delhi wherein the learned Trial Court has convicted the respondents under Sections 452/308/323/324/427/34 of IPC and directed the respondents to be released on probation of good conduct under section 4 of the Probation of Offenders Act, 1958.
2. The present application is only restricted to the order of sentence and seeks enhancement of the sentence to the respondents to a maximum as prescribed in law.
3. It is stated by Mr. Singh, learned APP that in the present case, the victim had received grievous injuries and all the respondents were categorically involved in the incident.
4. Paras 3, 4 and 5 of the order of sentence gives the reasoning of the



learned Trial Court in sentencing the respondents for release on probation. The said paragraphs are extracted below:-

“(3) Heard arguments on the aspect of sentence. Since all the convicts are reported to be first time offenders and have also compromised/ settled their disputes with the complainant (who are accused in cross-case bearing FIR No. 171/2009, PS Karol Bagh, under Sections 323/34 Indian Penal Code) and are related to them. This being the background, on the request of Ld. Counsel, the reports of the Probation Officer were called, which reports have been received today.

(4) As per the reports of the Probation Officer, the accused in the present case as well as the accused in the cross-case bearing FIR No. 171/2009, PS Karol Bagh, under Sections 323/34 Indian Penal Code are inter-related and residing in the same area of Karol Bagh. It is reported that the incident had occurred due to taunting of a 10 year boy namely Kalu S/o Jagdish after he responded in a rude way which created nuisance and was slapped by the owner of the restaurant after which both the parties fought with each other. and few members of both the sides were injured. It is further reported that the convicts belong to poor and low educated family background. As per the Social Investigation Reports, the neighbours have reported in favour of the convicts and did not make any complaints against them. It is reported that all the convicts are first time offenders and are not involved in any other case except the present case. As per the reports, there is



a full scope of reformation of the convicts and it is recommended that the benefit of Section 4(1) of the Probation of Offenders Act 1958 be given to the convicts.

(5) The convict Om Prakash is aged about 62 years having a family comprising of five children; convict Pappu is aged about 53 years having a family comprising of four children; convict Hunny is aged about 30 years having a family comprising of three minor children and aged parents; convict Gaurav is aged about 31 years having a family comprising of aged parents; convict Hari @ Hari Narayan is aged about 32 years having a family comprising of two children and is suffering from liver problem; convict Kunti @ Rohit is aged about 31 years having a family comprising of four children and aged parents; convict Shanky @ Dheeraj is aged about 28 years having a family comprising of one child and aged parents; convict Vijay Kumar is aged about 31 years having a family comprising of one child and aged parents; convict Kale @ Tri Bhuwan is aged about 37 years having a family comprising of two children and old aged parents; convict Johny @ Manish is aged about 34 years having a family comprising of aged parents and the convict Golu @ Dinesh is aged about 28 years having a family comprising of two children and aged parents.”

5. A perusal of the facts shows that the parties have settled their disputes with each other. Learned Trial Court after considering all the factors including the age of the respondents and their family obligations and most



importantly, all the respondents were the first time offenders and not involved in any other case except the present one, has released the respondents giving them the benefit as provided under section 4 of the Probation of Offenders Act, 1958.

6. I am also informed that the respondents have maintained good conduct and all the respondents belong to poor strata of the society and are also of lower educated family background. Hence, there was full scope for reformation and the learned Trial Court has rightly appreciated the facts and circumstances for giving them the benefit of section 4 of the Probation of Offenders Act, 1958.

7. For the said reasons, I find no infirmity in the order of sentence dated 22.10.2019 passed by the learned passed by the learned Trial Court. Hence the application seeking leave to appeal is dismissed.

8. Consequently, the appeal has become infructuous and is disposed of.

JASMEET SINGH, J

JANUARY 27, 2025/DM

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