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

+ **CRL.A. 628/2024**

SHAHIRUKH (IN JC)

.....Appellant

Through: Ms. Vrinda Bhandari and Ms.
Vanshita Gupta, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Ms. Shubhi Gupta, APP for State with
SI Sachin, P.S. Khajuri Khas.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

22.12.2025

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1. The present appeal arises from a judgment dated 23.01.2024 and order on sentence dated 08.04.2024 passed by the learned Additional Sessions Judge-04, North-East District, Karkardooma Courts, Delhi, in Sessions Case No. 202/2017 arising out of FIR No. 143/2017 registered at P.S. Khajuri Khas under Sections 394/34 IPC.

Vide the impugned order on sentence, the appellant was directed to undergo 5 years RI and pay a fine of Rs.10,000/-, in default whereof he would undergo 3 months SI, for the offence punishable under Section 394 IPC. The benefit under Section 428 Cr.P.C. was granted to the appellant.

The appellant's sentence was suspended during pendency of the present appeal vide order dated 03.09.2024.

2. The proceedings in the trial were carried out in respect of the investigation in consequence of lodging DD No. 74B. The injured *Nagender* @ *Narender* stated that on 28.03.2017, he had collected a sum of



Rs.15,000/- from his mother-in-law, *Anita Devi*, and was going back home. On the way, three boys, namely, *Shibbu @ Shabbu*, *Banty @ Shyam Kumar*, and the appellant/*Shahrukh* waylaid him. While the appellant/*Shahrukh* caught hold of his hands from behind, *Shibbu @ Shabbu* took out a sum of Rs.15,000/- from the right-side pocket of his pant, and when *Nagender @ Narender* objected, *Banty @ Shyam Kumar* gave him a fist blow on his right eye, as a result of which he suffered injuries. The three assailants ran away with the sum of Rs.15,000/-.

3. The prosecution examined 10 witnesses in support of its case. The injured/*Nagender* was examined as PW-6. He reiterated his version given at the time of complaint. He further stated that the PCR call was made from his own mobile number and that the ambulance came and took him to a hospital, where he was medically examined. He remained under treatment at the hospital for some time. During investigation, he had handed over his white shirt and handkerchief carrying blood stains to the concerned I.O., which were identified by him in Court. He also identified the appellant.

4. The MLC of injured (Ex. PW-2/A) was exhibited through the testimony of PW-2/Dr. *Adiba*, CMO, Pandit Madan Mohan Malviya Hospital. She stated that two injuries were found, namely, upon the right eyebrow and right cheek of the injured; however, his general condition was stable. The discharge summary of the injured/*Nagender* was exhibited through Dr. *Priyanka*, who was examined as PW-4.

5. *Nagender's* mother-in-law, *Smt. Anita Devi*, was examined as PW-7. She also testified that on 28.03.2017, she had given a sum of Rs.15,000/- to *Nagender*.

6. The I.O. of the case, SI *Bhishamber Dayal*, was examined as PW-10.



He deposed on various aspects of arrest and investigation.

7. In his statement under Section 313 Cr.P.C., the appellant denied the prosecution case and claimed false implication. Two defence witnesses, namely *Manoj Kumar Verma* (DW-1) and *Shahjad* (DW-2), were examined, who stated that they found *Nagender* in an injured condition and that they, along with the co-accused/*Banty @ Shyam Kumar*, removed him to the hospital.

8. I have gone through the testimony of the injured/*Nagender* as well as his medical examination report, discharge summary, and the defence taken by the appellant herein. Though it is contended that the I.O. had not seized the CCTV footage; the testimony of the I.O. reveals that there was nothing to indicate that any CCTV camera was installed near the place of the incident. Accordingly, this Court concurs with finding of guilt recorded by the Trial Court.

9. Learned counsel for the appellant states, on instructions, that the appellant does not wish to press the present appeal on merits and prays that he may be granted the benefit of probation under the Probation of Offenders Act, 1958 ("Probation Act"). She also states that the appellant has already undergone over half of his sentence and that the fine imposed upon him by the Trial Court stands paid. The receipt of deposit of fine has been handed over in Court and the same is taken on record.

10. Learned APP for the State, on instructions, confirms that the appellant has only two involvements other than the present case, which are presently pending trial. A status report in this regard is already on record.

11. It is pertinent to note that the underlying object of releasing offenders on probation is to facilitate their reintegration into society as law-abiding



citizens, fostering self-reliance and aiding in their reformation. The conviction of the appellant in the present case is under Section 394 IPC, and this Court has the discretion to extend the benefit of probation to him, provided the circumstances justify grant of such relief.

12. A Social Investigation Report had been requisitioned from the concerned Probation Officer and was received in Court on the last date of hearing. The said report bears the signatures of the Probation Officer, Karkardooma Courts, Delhi.

13. As per the report, the appellant (28-years-old, unmarried) is living in a joint family consisting of 17 members. The appellant and his family reside in a two-storey house, from the ground floor of which a grocery shop is run. The appellant's father has passed away, and he helps his mother run the said shop. He is stated to be physically as well as mentally fit and described as someone who enjoys spending his leisure time with family and friends. The appellant appears to have a belief in God, and his mother is extremely supportive of him. His other family members are supportive of him, as well, and wish to see him be free of the present case. The Probation Officer also spoke to two neighbours, who cited the appellant as having good social conduct and behaviour.

14. The appellant's latest nominal roll on record reflects that he has undergone more than half of his sentence; and the Probation Officer has opined that the appellant is a victim of his circumstances who is determined to not repeat behaviour such as in the present case, in the future.

15. Considering the above and having regard to the facts and circumstances of the present case, this Court is of the view that no purpose would be served by requiring the appellant to undergo further incarceration.



The object of the Probation Act, which seeks to reform and reintegrate first-time offenders into society, would be best served by affording the appellant an opportunity to demonstrate his reformation.

16. Accordingly, the impugned order on sentence is modified to the extent that the appellant is granted the benefit of probation under Section 4 of the Probation Act for a period of 1 year, subject to his furnishing a probation bond in the sum of Rs.10,000/-, with one surety of the like amount, to the satisfaction of the Trial Court, within a period of 4 weeks.

17. The appellant shall also remain under the supervision of the concerned Probation Officer for a period of 1 year and shall report before the Probation Officer once every month. It is made clear that in the event of any breach of the conditions of probation or involvement in any other offence during this period, the benefit granted under this order shall stand revoked, and the appellant shall be liable to undergo the remaining portion of the sentence as awarded by the Trial Court.

18. With the above directions, the present appeal stands disposed of.

19. A copy of this order be communicated to the Trial Court, the concerned Jail Superintendent, and the concerned Probation Officer, for information and necessary compliance.

MANOJ KUMAR OHRI, J

DECEMBER 22, 2025

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