



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

% Date of Decision:08.08.2025

+ **CRL.A. 400/2018**

SONU CHAUHAN & ANR Appellants

Through: Mr. A. Ali Khan, Advocate

Versus

STATE OF NCT OF DELHI Respondent

Through: Ms.Shubhi Gupta, APP for State with
SI Suresh Kr. Meena,
Ms.Suchi Mishra, Probation Officer

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

CRL.A. 400/2018 & CRL.M.A.-2585/2023

1. By way of the present appeal, the appellants seek to assail the judgment of conviction dated 05.01.2018 and order on sentence dated 08.01.2018 passed by the learned District & Sessions Judge, North-East District, Karkardooma Courts, Delhi in SC No. 44634/2015, arising out of FIR No. 177/2012 registered at P.S. New Usmanpur under Sections 308/323/34 IPC.

Vide order on sentence, both appellants were directed to undergo rigorous imprisonment for a period of two and a half years each with a fine of Rs. 5,000/- each for the offence punishable under Section 308/34 IPC, with a default sentence of four months' simple imprisonment. All sentences were to run concurrently, with the benefit of Section 428 Cr.P.C being



extended to the appellants.

Insofar as the other co-accused are concerned, *Sushil Chauhan* was only convicted under Section 323 IPC and directed to pay fine of Rs.10,000/-. Proceedings against accused *Nanak Chand Chauhan* stood abated as he had expired during trial on 27.09.2016.

2. Briefly, the prosecution case is that on 05.07.2012, at about 10:30–10:45 p.m., following a dispute over payment for whitewashing work carried out by one *Monu*, complainant *Mahipal Singh* (PW-1) and his elder brother *Rajpal Singh* (PW-2) visited the house of accused *Nanak Chand Chauhan*, and on their arrival, they were allegedly pelted them with bricks from the rooftop. Soon thereafter, both appellants, armed with iron rods, allegedly assaulted *Mahipal Singh*, causing two head injuries and an injury to his left wrist, while co-accused *Nanak Chand* and *Sushil Chauhan* gave fist and kick blows to both victims. The injured were taken to *Jag Pravesh Hospital*, where they were medically examined.

3. In total, the prosecution examined 7 witnesses, including injured eye-witnesses PW-1 *Mahipal Singh* and PW-2 *Rajpal Singh*, who identified the appellants and attributed specific role of giving blows with iron rods to them. The medical evidence was tendered by PW-6 *Dr. Amrish*, who proved the MLCs noting lacerated wounds on *Mahipal's* scalp and bruises on *Rajpal*. PW-3 *Ct. Mukesh Kumar* and PW-7 *ASI Nanu Ram* deposed regarding recovery of two iron rods (seizure memo Ex. PW3/A, seizure memo of the "*sariya*" (Ex. PW3/C) and brick pieces (Ex. PW3/B) from the house of the accused.

4. The statements of the accused persons were recorded under Section 313 Cr.P.C. on 23.09.2017, wherein they denied the prosecution case and



claimed false implication. They stated that the complainant party, along with others, had come to their house, assaulted them, and robbed cash and jewellery. In their defence, the accused examined two witnesses—DW-1 ASI Surender Kumar and DW-2 SI Narendra Singh—who produced diary register entries to show that complaints had been lodged by accused Nanak Chand against the complainant side in 2012(Ex.DW1 /A and Ex.DW2/A).

5. It is seen from the testimonies of PW1 and PW2 that both of them have identified the appellants and consistently attributed to them the role of first throwing bricks at them from the roof and then giving blows to them with iron rods. Nothing has come out in their testimonies which discredits them. Their testimonies are also corroborated by the MLC of the victims. The MLC of *Mahipal Singh* records lacerated cut wounds to the head, cuts on corner of mouth and bruises, whereas, the MLC of *Rajpal Singh* records multiple bruises. PW3 and PW7 have deposed as to the recovery of the iron rods (Ex. P1 and P2) at the instance of the appellants. Although suggestions were made to the witnesses to the effect that the complainant and other persons were the aggressors who had taken away jewellery and Rs. 50,000/- from the accused persons and that they had also previously taken a loan, however, no witnesses were produced who could corroborate their version. Thus, this Court does not find any ground to interfere with the finding on their conviction.

6. The appellants have sought release on probation of good conduct vide CRL.M.A.-2585/2023. Learned counsel for the appellant submits that the accused persons have no prior criminal involvements and have duly deposited the fine amount as directed by the Trial Court. It is further urged that the injuries caused were simple in nature, as specifically recorded in the



MLC.

7. Learned APP for the State, on instructions, submits that the aforesaid fact regarding absence of previous involvements stands duly verified as per the status report on record.

8. Ms. *Suchi Mishra*, Probation Officer, has handed over her report, which is taken on record. The report mentions that, both appellants, *Sonu Chauhan* (41, married) and *Sunil Chauhan* (32, unmarried), are permanent residents of their mother's property at *Brahmpuri*, Delhi, comprising three rented shops. *Sonu* resides with his wife and children on the second floor, runs a small housekeeping material supply business for the past five years earning Rs.20,000/-Rs.25,000/- per month, and supplements household income with the mother's pension of Rs.13,000/- and rental income of Rs.15,000/-. *Sunil* resides with his mother on the ground floor and has been employed for the past two months as a private driver in *Kamla Nagar* earning Rs.18,000/- per month. Both are physically and mentally fit, of normal social behaviour, occasionally consume alcohol, and are regarded in the community as law-abiding and well-behaved, with no prior criminal antecedents or other pending cases apart from the present one. In their statements, both appellants denied the allegations, asserting false implication arising from a monetary dispute between their late father, *Nanak Chand* (co-accused who expired in 2016), and the complainant's family, alleging that the complainant party had come armed and drunk, leading to a quarrel. The probation officer's assessment records them as having a stable family background, positive community image, and being primary contributors to house hold income.

9. 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. A testament to the importance of this provision is that the Supreme Court in Lakhvir Singh & Ors. v. State of Punjab & Anr.,¹ has extended the benefits of the Probation of Offenders Act, 1958 even to convicts who had not completed the mandatory minimum sentence of seven years as prescribed in Section 397 IPC, since IPC was enacted before the Probation of Offenders Act came into being. The relevant extract is reproduced hereunder: -

“16. A more nuanced interpretation on this aspect was given in CCE v. Bahubali. It was opined that the Act may not apply in cases where a specific law enacted after 1958 prescribes a mandatory minimum sentence, and the law contains a non obstante clause. Thus, the benefits of the Act did not apply in case of mandatory minimum sentences prescribed by special legislation enacted after the Act. It is in this context; it was observed in State of M.P. v. Vikram Das that the court cannot award a sentence less than the mandatory sentence prescribed by the statute. We are of the view that the corollary to the aforesaid legal decisions ends with a conclusion that the benefit of probation under the said Act is not excluded by the provisions of the mandatory minimum sentence under Section 397 IPC, the offence in the present case. In fact, the observation made in Joginder Singh v. State of Punjab are in the same context

18. We, thus, release the appellants on probation of good conduct under Section 4 of the said Act on their completion of half the sentence and on their entering into a bond with two sureties each to ensure that they maintain peace and good behaviour for the remaining part of their sentence, failing which they can be called upon to serve that part of the sentence...”

10. From above, it is pertinent to note that Section 308 IPC does not prescribe any minimum sentence. The IPC, having been enacted prior to the coming into force of the Probation of Offenders Act, must be read harmoniously with the latter statute. The bar on the application of the Act arises only where a special statute enacted after 1958 prescribes a mandatory minimum sentence coupled with a non obstante clause. In the present case, the conviction is under Section 308 IPC read with Section 34 IPC. Given

¹ 1 (2021) 2 SCC 763



that even otherwise, the offence does not carry a mandatory minimum sentence, the Court retains discretion to extend the benefit of probation to the appellants, provided the circumstances justify such relief.

11. The nominal roll dated 02.08.2025 records that the custody period of *Sonu Chauhan* is 22 days and *Sunil Chauhan* is 23 days. For both the appellants it states that their behaviour was satisfactory and that there was no misconduct. It does not record any prior convictions or pending cases. Vide order dated 09.04.2018, this Court had suspended the appellants' sentences during the pendency of the appeal. The probation report dated 07.08.2025 notes that both appellants possess a stable family background, are engaged in gainful employment, contribute to household income, and are physically as well as mentally fit. The MLCs of PW-1 (Ex.PW6/A) and PW-2 (Ex.PW6/B) indicate that the injuries sustained were simple in nature.

12. In view of the facts and circumstances of the case, the judgement of conviction dated 05.01.2018 and order on sentence dated 08.01.2018 are upheld. However, Considering the nature of the injuries, the absence of prior criminal involvement, the period of sentence already undergone, and the overall circumstances reflected in the probation report, as well as the legal position qua the applicability of Probation of Offenders Act as iterated above, the appellants are granted the benefit of probation on them furnishing a bond in the sum of Rs. 25,000/- each with one surety for their good behaviour for a period of one year before the learned trial court within four weeks from today. In addition, each appellant shall pay Rs. 10,000/- as cost of the proceedings under Section 5(b) of the Act which shall also be deposited with the trial court, within four weeks. In case of non-compliance, the sentence awarded by the trial court shall remain in force.



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The appellants shall remain under the supervision of the Probation Officer concerned for a period of one 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 substantive sentence as awarded by the Trial Court.

13. The appeal and the application are accordingly disposed of in the above terms.

14. A copy of this order be communicated to the concerned Jail Superintendent as well as the trial court.

MANOJ KUMAR OHRI
(JUDGE)

AUGUST 08, 2025/kb

(corrected & released on 19.08.2025)