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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 434/2018**
STATEAppellant

Through: Mr. Yudhvair Singh Chauhan, APP for
State with SI Suraj, PS Hauz Khas.

versus

VIJAY KUMARRespondent

Through: Mr. Anubhav Kumar for Mr. Krishan
Kumar, Advs. with Respondent in
person.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

% **20.12.2025**

1. Respondent/accused was put to trial for commission of offences punishable under Sections 307 and 323 of Indian Penal Code, 1860 ("IPC").
2. The allegations against him were to the effect that, on 06.01.2014, he attempted to commit murder of Mohammad Naushad Ansari (PW-1) and, during the same occurrence, he, voluntarily caused simple hurt to Mohammad Farooq (PW-2).
3. The prosecution examined 13 witnesses and, by virtue of Judgment dated 29.05.2017, learned Trial Court held respondent guilty for commission of offences punishable under Sections 326 and 323 IPC. The learned Trial Court was of the view that the evidence on record did not establish any attempt on the life of Mohammad Naushad Ansari as there was nothing in the deposition of the witnesses to said effect and, therefore, no offence under Section 307 IPC was made out. However, keeping in mind the nature of



injuries suffered by PW-1, the respondent was held guilty under Section 326 IPC, instead of under Section 307 IPC.

4. After hearing respondent on the question of sentence, learned Trial Court, keeping in mind his young age and the fact that he had already undergone incarceration for more than a year, deemed it appropriate to release him on probation. Besides probation, respondent was also burdened with cost of proceedings, out of which, part amount was directed to be released to both the injured, as compensation. Such order on sentence is dated 05.06.2017 and, admittedly, the compensation has also been disbursed to the injured persons.

5. The present appeal has been filed assailing the above said orders.

6. However, during course of the arguments, learned Additional Public Prosecutor for the State submitted that he would be restricting the present appeal only with respect to the quantum of sentence and does not challenge the conviction handed out to the respondent for offences under Sections 326 and 323 IPC.

7. He argues that there was no point in giving benefit of probation, keeping in mind, the nature of injuries and also the fact that it was a serious offence under Section 326 IPC.

8. We also do find one legal flaw in the order on sentence.

9. Section 326 IPC attracts life sentence and whenever any person is held guilty for commission of offence, which invites life sentence, the grant of benefit of probation is prohibited, as is evident from bare provision i.e. Section 4 of the *Probation of Offenders Act, 1958*.

10. The above said legal position is not disputed, even from the side of the respondent.

11. We have already taken note of the fact that the respondent has spent



more than a year behind the bars and during the course of arguments, nothing was brought to our knowledge which may indicate that respondent has indulged into any further criminal activity. There is no further registration of any FIR against him and at the time of commission of offence, he was, hardly, 25 years old.

12. Keeping in mind the overall facts of the case and that the incident had happened more than a decade back, we, while setting aside order dated 05.06.2017, so far it relates to grant of probation, alter the sentence and dispose of the appeal by holding that the substantive sentence would be the one, as already undergone by him. The order *qua* cost of proceedings and compensation would, however, remain unaltered.

13. The appeal stands disposed of in aforesaid terms.

VIVEK CHAUDHARY, J

MANOJ JAIN, J

DECEMBER 20, 2025/pk/kp/sa