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

+ CRL.A. 485/2016

MITHAI LAL @ SUSHIL @ KANIHYA LAL & ANR

.....Appellant

Through: Ms. Chandrika Sachdev, Amicus
Curiae

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Sunil, PS Sultanpuri

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

22.12.2025

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1. By way of the present appeal, the appellant no.2/*Kuldeep Prasad* seeks to assail the judgment of conviction dated 21.04.2016 and the order on sentence dated 22.04.2016 passed by the Additional Sessions Judge-V, West District, Tis Hazari Courts, Delhi in SC No. 77/2014 (old SC No. 27/12), arising out of FIR No. 83/2011 registered at P.S. Kirti Nagar under Sections 323/325/307/34 of the Indian Penal Code, 1860¹ (IPC). By way of the impugned judgment, the appellant/*Kuldeep* was held guilty for the offences punishable under Section 324/325/34 of the IPC, and was acquitted of the charge under Section 307 of the IPC.

2. Vide the order on sentence, the appellant was directed to undergo simple imprisonment for a period of two years with a fine of Rs. 2,000/- for

¹ The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India).



the offence punishable under Section 324/34 of the IPC, with a default sentence of one month simple imprisonment. Similarly, for the offence under section 325/34 of the IPC, the appellant was directed to undergo simple imprisonment for a period of two years with a fine of Rs. 2,000/-, with a default sentence of one month simple imprisonment. It was further noted that out of the total fine, Rs. 4,000/- would be given as compensation each to complainant *Smt. Bilkish* (PW-1) and her son, *Ismile* (PW-3).

Vide order dated 20.05.2016, the appellants were granted suspension of sentence. Appellant No. 1, namely *Mithai Lal @ Sushil @ Kanhaiya Lal*, expired on 27.04.2024. A verification report in this regard has been placed on record. Accordingly, the appeal *qua* him stands abated.

3. Briefly stated, the prosecution case is that on 18.03.2011, around 5:00 pm, complainant *Smt. Bilkish* (PW-1) and her son, *Ismile* (PW-3) were physically attacked by the appellant herein, due to a quarrel which happened on account of the appellant placing fruit juice cart (*rehri*). It was alleged that accused *Mithai Lal* (since deceased) assaulted PW-3 with a sword-like weapon on his head, as a result of which he sustained bleeding injuries. It was further alleged that the present appellant Kuldeep inflicted a blow with an iron rod on the right hand of PW-1, causing a fracture injury. It was also alleged that the co-accused *Lala @ Narender* had given *danda* blows and fist blows during the incident.

4. During trial, the prosecution examined thirteen witnesses, including the injured witnesses PW-1 *Smt. Bilkish* and PW-3 *Ismile*, as well as medical witnesses PW-5 Dr. *Amish Kumar* (Senior Resident, Orthopaedics, DDU Hospital), PW-6 Dr. *Aruna Singh* (Medical Officer, DDU Hospital) and PW-12 Dr. *Rajender* (Director, FSL). The remaining witnesses were



police officials connected with the investigation. The Trial Court relied upon the testimonies of PW-1 and PW-3, who attributed specific roles to the accused persons. PW-1 deposed that the present appellant *Kuldeep* had struck her right hand with an iron rod, resulting in a fracture, and also caused fist and leg blows. PW-3 corroborated the incident and deposed regarding the assault upon his mother. The medical evidence, including the MLC of PW-1 (Ex. PW-12/B), the MLC of PW-3 (Ex. PW-13/B) and the X-ray report (Ex. PW-13/A), was relied upon. PW-5, PW-6 and PW-12 supported the medical findings, and the injury suffered by PW-1 was opined to be *grievous* in nature. The Trial Court rejected the defence plea that the present FIR was a counterblast to an earlier FIR registered against PW-3.

5. The statement of the appellant Kuldeep was recorded under Section 313 Cr.P.C. on 08.01.2016, wherein he denied the allegations, claimed false implication, and asserted that he was not present at the spot at the time of the incident. He further stated that the present case had been falsely registered as a counterblast to an earlier complaint made by his niece against PW-3. In his defence, appellant got his niece *Pooja* (DW-1) examined. DW-1 deposed that PW-3 misbehaved with her, burnt her face with cigarette, though she was not medically examined. She also deposed that appellant was not present at the place of occurrence during the incident.

6. Upon appreciation of the evidence, the Trial Court found the testimony of PW-1 to be consistent and reliable, duly corroborated by the testimony of PW3, medical evidence, including the MLC and X-ray report proving grievous injury. The recovery of the weapon at the instance of the appellant further strengthened the prosecution case. The defence plea of



false implication was not substantiated. Accordingly, the Trial Court convicted the appellant under Sections 324 and 325 IPC.

Upon re-appreciation of the record, this Court finds no infirmity in the findings returned by the Trial Court insofar as the conviction of the appellant is concerned.

7. Learned counsel for the appellant, on instructions, submits that the appellant does not wish to press the appeal on merits and confines his prayer to seeking release on probation of good conduct. Learned counsel further submits that the appellant has no previous criminal antecedents. Lastly, it is submitted that the appellant voluntarily undertakes to deposit the fine amount.

8. Learned APP for the State, submits that the aforesaid fact regarding absence of previous involvements stands duly verified.

9. Pursuant to this Court's directions, a social investigation report has been called for, which is handed over and taken on record. The report mentions that the appellant *Kuldeep* (43 years old and married), resident of B-615, Jawahar Camp, Kirti Nagar. The report states that the said property is a 20 *Gaz Juggi* owned by him where he resides with his wife, three daughters, and one son. The report states that he works as E-rickshaw driver earning Rs.12,000/- per month, and supplements household income with his wife working as house help and earning Rs.5,000/-. The appellant is physically and mentally fit, of normal social behaviour, and is regarded as a law-abiding and well-behaved citizen in the community, with no prior criminal antecedents or other pending cases apart from the present one. The probation officer's assessment records him having a stable family background, positive community image, and being primary contributor to



house hold income. Lastly, the report recommends releasing him on probation as they record a possibility of rehabilitation and reformation.

10. 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.,² 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. In the present case, the conviction is under Section 324/325/34 of the IPC. This Court retains discretion to extend the benefit of probation to the appellant, provided the circumstances justify such relief.

11. In view of the facts and circumstances of the case, the judgment of conviction dated 21.04.2016 and the order on sentence dated 22.04.2016 are upheld. However, considering the absence of any prior criminal involvement and the overall circumstances reflected in the probation report, as well as the legal position regarding the applicability of the Probation of Offenders Act, as noted hereinabove, the appellant is granted the benefit of probation. The appellant shall furnish a probation bond in the sum of Rs.10,000/- with one surety of the like amount before the Trial Court within a period of six weeks from today.

12. The appellant shall remain under 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 is accordingly disposed of in the above terms.

14. The bail bonds furnished on behalf of the appellant, stand cancelled and sureties accordingly be discharged.

15. The appellant has voluntarily undertaken to deposit the fine amount as directed by the Trial Court, within a period of six weeks. Upon such deposit, the Trial Court shall ensure that the same is released to the victim at the earliest.

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

MANOJ KUMAR OHRI, J

DECEMBER 22, 2025/kb

² 1 (2021) 2 SCC 763