



2025:DHC:10427



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

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Date of Decision: 20.11.2025

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CRL.A. 739/2016 & CRL.M.A. 12225/2016

STATE (NCT) OF DELHI

.....Appellant

Through: Ms. Shubhi Gupta, APP for State with
SI Shivam, PS Seelam Pur

versus

SHREEPAL

.....Respondent

Through: Mr. M.L. Yadav, and Mr. Prashant,
Advocates

AND

CRL.A. 324/2018

SHREEPAL

.....Appellant

Through: Mr. M.L. Yadav, and Mr. Prashant,
Advocates

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for State with
SI Shivam, PS Seelam Pur

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. In the trial arising out of FIR no. 97/2012 registered under Sections,



452/392/397/34 IPC at P.S. Seelampur, Delhi, *Shreepal* was held guilty of the offence under Sections 452 IPC, 392 r/w Section 397 and Section 25 Arms Act.

2. The Trial Court noted that *Shreepal* had clean antecedents and accordingly called for a probation report. The order on sentence records that the appellant/*Shreepal* was not involved in any other case and belongs to a poor family and was stated to have having normal mental as well as moral habits. It was further recorded that he lives with his wife and 6 children aged between 8 to 18 years. Taking into account the period of imprisonment already undergone as well as chances of reformation, he was directed to be released on probation for a period of 3 years and further directed him to furnish a probation bond of Rs. 30,000/- with two sureties of the like amount each.

3. While the State has preferred CRL.A. 739/2016 filed under Section 377 Cr.P.C assailing the order on sentence, *Shreepal* has also challenged his conviction by way of CRL.A.324/2018.

4. On the last date of hearing, a report was requisitioned from the concerned Probation Officer as to whether *Shreepal* has complied with the conditions of probation.

5. *Ms. Suchi Mishra*, Probation Officer, Karkardooma Courts, Shahdara, Delhi is present in Court and has handed over a report which is taken on record. As per the report, the order passed by the Sessions Court was never received by the District Probation Officer, *Badaun*. Consequently, no supervision could be carried out. The report is however, accompanied by a document and statement of Local Panchayat, certifying that *Shreepals* has good conduct and his family condition is normal. He is stated to be owing



only 5 bighas of land and suffers from breathing problems.

6. Learned APP for State has also handed over a status report stating that although the appellant was found involved in one case however, he is acquitted in the same.

7. Mr. M.L. Yadav, learned counsel for the appellant, submits that the alleged offence pertains to the year 2012. The appellant who is now about 65 years of age, is a farmer by profession and has a family of 6 children to look after. It is further submitted that the appellant had suffered from *Tuberculosis* and is currently *Asthmatic*. He relies on decision of Supreme Court in Lakhvir Singh & Ors. Vs. State of Punjab & Anr., reported as **(2021) 2 SCC 763**. He, on further instructions from the appellant who is present in Court, states that the appellant does not wish to press his appeal on merits, however, seeks dismissal of the appeal preferred by the State.

8. Notably, Supreme Court in Lakhvir Singh & Ors. Vs. State of Punjab & Anr., reported as **(2021) 2 SCC 763**, has extended the benefits of the Probation Act 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 Act came into being. The relevant extract is reproduced hereunder:-

“16. ... A more nuanced interpretation on this aspect was given in CCE v. Bahubali¹⁵. 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.¹⁶ It is in this context, it was observed in State of M.P. v. Vikram Das⁶ 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 Punjab¹⁷ 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."*

9. The IPC, having been enacted prior to the coming into force of the Probation of Offenders Act, 1958, must be construed harmoniously with the latter statute. The embargo on the applicability of the Probation of Offenders Act arises only where a special statute enacted subsequent to 1958 contains a non obstante clause and prescribes a mandatory minimum sentence, thereby expressly excluding the Court's discretion. In the present case, the conviction is under Sections 452/392/397 IPC and Section 25 of the Arms Act. Although Section 397 IPC and Section 25 of the Arms Act prescribe minimum sentences, neither provision contains a non obstante clause excluding the operation of the Probation of Offenders Act. Considering the above, the Court retains discretion to extend the benefit of probation to the appellant, provided the circumstances justify such relief.

10. The two reports handed over in Court today on behalf of State as well as Probation Officer, both confirm that the appellant has not been found involved in any other case after being released on probation. Taking into consideration aforesaid reports, the age of *Shreepal*, his medical issues, the import of decision in *Lakhvir Singh* (supra), and despite the fact that the appellant has not remained under supervision yet keeping in view that he is not involved in any other case, the appeal filed by the State is dismissed alongwith pending application and the appeal filed by *Shreepal* is



2025:DHC:10427



accordingly disposed of, as not pressed.

11. A copy of this judgement be communicated to the Trial Court.

**MANOJ KUMAR OHRI
(JUDGE)**

NOVEMBER 20, 2025

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