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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.A. 774/2018

SALEEM @ SHAMSHUDDIN

.....Appellant

Through: Mr. Vivek Sharma, Mr. Vikas Sharma
and Mr. V.K. Nehra, Advocates.

versus

THE STATE (GOVT.NCT OF DELHI)

.....Respondent

Through: Mr Pradeep Gahalot, APP for State
with SI Sachin PS Khajuri Khas,
Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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22.12.2025

1. By way of the present appeal, the appellant seeks to assail the judgment of conviction and order on sentence dated 13.07.2018 passed by the learned District & Sessions Judge, North-East District, Karkardooma Courts, Delhi in SC No. 327/2017, arising out of FIR No. 428/2016 registered at P.S. Khajuri Khas, Delhi under Section 308 IPC.

Vide order on sentence, the appellant was directed to undergo rigorous imprisonment for a period of one year with a fine of Rs. 25,000/- for the offence punishable under Section 308 IPC, and in default thereof, he was directed to further undergo simple imprisonment for a period of four months. It was lastly directed that, out of the fine amount, Rs.20,000/- would be paid to the complainant as compensation. The appellant is entitled to the benefit of Section 428 Cr.P.C.

Vide order dated 30.07.2018, the sentence of the appellant was suspended and thereafter, he was released on bail.



2. The prosecution case, in brief, is that on 26.05.2016 at about 8:00 AM, the complainant Ms. Meena Khan was allegedly assaulted by the appellant near her residence at Shri Ram Colony, Delhi. It was alleged that the appellant struck her on the head with a *danda*, resulting in a grievous injury. The prosecution alleged that the appellant acted with such intention and knowledge as would attract the offence punishable under Section 308 IPC.

3. In total, the prosecution examined 6 witnesses, including injured *Meena Khan*, who was examined as PW-1, and identified the appellant in court. The complainant's sister *Ms Rabiya*, who took her to the hospital upon finding her lying unconscious in the place of the incident, was examined as PW-2. The medical evidence was tendered by PW-4 *Dr. Pragya Tiwari*, who proved the MLC (which was exhibited as Ex.PW-4/A) noted that there was a lacerated wound on the frontal region of the head of PW1, measuring 4 cm x 0.5cm, and she opined the injuries to be "*grievous*" in nature. PW-3 *ASI Surender Pal* and PW-5 *HC Pramod Kumar* deposed regarding the recovery of a *danda* (exhibited via seizure memo Ex. PW3/C). The rest of the witnesses were formal in nature and deposed as to various aspects of the investigation.

4. The statement of the accused was recorded under Section 313 Cr.P.C., wherein he denied the prosecution case and claimed false implication. No defence was led. However, in the cross examination, the defence claimed that the nephew of the complainant had "*teased*" the daughter of the accused in the past, and FIR no. 425/16 under section 354 IPC has been registered against her nephew in this regard.

5. A perusal of the record indicates that the testimony of PW1



consistent, cogent and inspires confidence. The testimony is also corroborated by the medical evidence on record. The defence's claim of false implication remains unsubstantiated. Consequently, the Trial Court held that the prosecution had proved its case beyond reasonable doubt and accordingly convicted the appellant for the offence punishable under Section 308 IPC.

Upon re-appreciation of the material on record, this Court finds no infirmity in the findings returned by the Trial Court insofar as the conviction of the appellant under Section 308 IPC is concerned.

6. Learned counsel for the appellant, on instructions from the appellant, submits that the appellant does not wish to press the appeal on merits and confine his prayer to seeking release on probation. He further submits that he has no prior criminal involvements and has duly deposited the fine amount as directed by the Trial Court and the fine receipt has been handed over in this regard, which is taken on record. It is prayed that the benefit of Section 4 of the Probation of Offenders Act, 1958 be extended to him.

7. Learned APP for the State, on instructions, submits that the appellant has no other criminal involvement. In this regard, a report pertaining to previous involvements has been placed on record, confirming the same.

8. Pursuant to the directions of this Court, Ms. *Suchi Mishra*, Probation Officer, Karkardooma Courts, Delhi has handed over the Social Investigation Report of the appellant, which is taken on record. It is noted that the appellant is aged 45, is a resident of E-115, Gali no. 17, Shastri Park, Seelampur. He resides with his wife and two children, used to export clothes earning about Rs.20,000/-per month but has not been able to work since the last two months due to losses being incurred. He is physically and



mentally fit, of normal social behaviour, and is regarded in the community as well-behaved. Further, it is noted that the appellant has no prior criminal antecedents or other pending cases apart from the present one. The probation officer's assessment records him as having a stable family background, positive community image, and being the primary contributor to the household income. It lastly records that he is recommended for release on probation by the officer.

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.

10. It is pertinent to note that Section 308 IPC does not prescribe any minimum sentence. Given that even otherwise, the 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 and order on sentence are upheld. However, the absence of prior criminal involvement, 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 appellant is granted the benefit of probation on him furnishing a probation bond in the sum of Rs. 10,000/- with one surety of the like amount before the Trial Court to be paid



within six weeks from today. They shall maintain peace and good behaviour for a period of one year and shall not commit any offence.

12. The appellant 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 stands accordingly disposed of in the above terms. The trial court shall release the compensation amount to the victim, if not already done.

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

15. 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

¹ 1 (2021) 2 SCC 763