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

+ **CRL.A. 795/2018**

SACHIN @ KALLU

.....Appellant

Through: Mr. Anuj Kapoor, Mr. Nandeesh
Nanda and Mr. Shivom Sethi,
Advocates.

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Anil Kumar, P.S. Gandhi
Nagar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

20.12.2025

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1. By way of the present appeal, the appellant seeks to assail the judgment of conviction dated 27.02.2018 and the order on sentence dated 21.03.2018 passed by the learned ASJ-03, East District, Karkadooma Courts, Delhi in SC No. 1007/2016, arising out of FIR No. 358/2013 registered under Sections 394/397 IPC at P.S. Gandhi Nagar.

Vide the impugned order on sentence, the appellant was directed to undergo RI for a period of 5 years along with paying a fine of Rs.50,000/-, in default whereof he would undergo SI for 3 months, for the offence punishable under Section 394 IPC; and RI for a period of 6 months along with paying a fine of Rs.5000/-, in default whereof he would undergo SI for 15 days, for the offence under Section 324 IPC. Both the sentences were directed to run concurrently and the benefit under Section 428 Cr.P.C. was extended to the appellant.



2. Briefly put, the case of the prosecution is that on 23.09.2013 at about 08:30 PM, while the complainant/*Mohd. Sadiq* was returning from the shop of one *Ansar Ahmad*, the appellant herein caught hold of him at the turn of *gali* no. 4, pointed an *ustra* at him, and took out money from the dub of his *lungi*. The complainant resisted and raised alarm, whereupon the appellant gave an *ustra* blow to his cheek. On hearing the commotion, *Ansar Ahmad* along with other public persons tried to save the complainant. The appellant also gave injuries to *Ansar Ahmad* with the *ustra*. The public persons eventually managed to overpower and apprehend the appellant, and *Ansar Ahmad* snatched the *ustra* from the appellant's hand. When the police reached the spot soon thereafter, the appellant along with his *ustra* was handed over to them.

3. The prosecution examined 10 witnesses in support of its case, including the injured complainant, *Mohd. Sadiq* (PW-2); the injured eyewitness, *Ansar Ahmad* (PW-1); and one of the public persons present at the spot, *Mohd. Azam* (PW-3). *Yashpal*, who was examined as PW-9, did not support the prosecution case. The CMO of SDN Hospital was examined as PW-5 and she proved the MLC of the complainant/*Mohd. Sadiq* as Ex. PW-5/A and the MLC of the injured eyewitness/*Ansar Ahmad* as Ex. PW-5/B. Dr. *R. Singhal* (PW-6) deposed about having opined the injuries of *Ansar Ahmad* to be simple in nature. The remaining witnesses are police officials who deposed as to various aspects of the investigation.

4. The appellant's statement under Section 313 Cr.P.C. was recorded, wherein he denied the prosecution case, claimed false implication, and stated that he had a quarrel with the brother of "*Mohd. Ansar*", due to which the complainant held a grudge against him. In his defence, the appellant



examined his mother, *Sukhbiri*, as DW-1. She deposed that after her son was arrested, she received a call from the police demanding a sum of Rs.20,000/- . She stated that she went to the P.S. and gave a sum of Rs.5,000/- against the assurance that her son would be released on temporary bail; however, she could not state the names, ranks, or features of the police officials who purportedly took the said amount from her. She later stated that two police officials took her son from her house in only her presence.

5. The injured complainant/PW-2 as well as the injured eyewitness/PW-1 have corroborated each other on all material particulars and put forth a cogent version of events in line with the prosecution case. It is settled law that the testimony of injured witnesses stands on a higher pedestal, and in the present case, both the aforesaid injured witnesses have deposed consistently with respect to the core allegations of the appellant intercepting the complainant, taking out money from the dub of the complainant's *lungi*, and causing injuries on the complainant's cheek with an *ustra*. Both also correctly identified the appellant in Court and deposed consistently about the appellant inflicting an injury on *Ansar Ahmad*'s nose with the said *ustra*. The prosecution version is further supported by the independent witness/PW-3, who deposed as to witnessing the appellant inflict an injury on *Ansar Ahmad*'s nose with "a sharp weapon", seeing another boy lying in an injured position, and public persons overpowering and apprehending the appellant. He, too, correctly identified the appellant in Court. The said testimonies are also supported by the respective MLCs of the injured persons, which note injuries consistent with the prosecution version of events, and reflect that the said injuries were opined to be *simple* in nature. Upon examination of the record of proceedings and re-appraisal of the



evidence, especially the testimonies of the injured & other key witnesses, as well as the medical evidence on record; this Court finds no reason to interfere with the well-reasoned conclusions of the Trial Court *qua* the conviction of the appellant under Sections 324/394 IPC. The same is accordingly upheld.

6. The appellant is present in person and has been duly identified by the concerned I.O. His gate pass has been handed over and the same is taken on record. Learned counsel for the appellant states, on instructions, that the appellant has not been convicted in any other case, has already undergone over half of his sentence in the present matter, and is praying that he be considered for grant of probation under the Probation of Offenders Act, 1958 (“Probation Act”).

7. Learned APP for the State, on instructions, confirms that the appellant has not been convicted in any other matter. He states that the appellant has been acquitted in one matter and the one other matter that he is involved in is presently pending trial. A status report in this regard has been handed over and the same is taken on record.

8. Pursuant to this Court’s directions, a Social Investigation Report (SIR) pertaining to the appellant had been requisitioned and the same has been received. The said report bears the signatures of Ms. Suchi Mishra, Probation Officer, Karkardooma Courts. As per the report, the appellant is 32 years old and presently residing in a house in Gandhi Nagar that is his ancestral property, along with his elder brother. Both his parents have expired. The appellant has stated that he believes in God and his temperament during the interview with the Probation Officer was recorded as normal. The appellant is physically as well as mentally fit and works as a



sweeper in Garg Hospital, earning Rs.8,500/- per month. He also works as a waiter during the wedding season, wherefrom he earns daily wages of Rs.500/- per day.

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. Considering that the appellant has not been convicted in any matter apart from the present one, that his latest nominal roll reflects that he has already undergone nearly 3 years of incarceration, and having regard to the facts and circumstances of the present case, this Court is of the view that no purpose would be served by requiring the appellant to undergo further incarceration. The object of the Probation Act, which seeks to reform and reintegrate first-time offenders into society, would be best served by affording the appellant an opportunity to demonstrate his reformation.

10. Accordingly, the impugned order on sentence is modified to the extent that the appellant is granted the benefit of probation under Section 4 of the Probation Act for a period of 1 year, subject to his furnishing a probation bond in the sum of Rs.10,000/-, with one surety of the like amount, to the satisfaction of the Trial Court, within a period of 6 weeks.

11. The appellant shall also remain under the supervision of the concerned Probation Officer for a period of 1 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 sentence as awarded by the Trial Court.



12. With the above directions, the present appeal stands disposed of.
13. A copy of this order be communicated to the Trial Court, the concerned Jail Superintendent, and the concerned Probation Officer, for information and necessary compliance.

MANOJ KUMAR OHRI, J

DECEMBER 20, 2025/nb