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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 864/2018**
HANISH @ SONU & ORSAppellants
Through: Mr.Vatan Khatri, Advocate

versus

STATE (GOVT OF NCT OF DELHI)Respondent
Through: Ms.Shubhi Gupta, APP for State

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
22.12.2025

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1. By way of present appeal, the appellants seek to assail the judgement of conviction dated 26.07.2018 and order on sentence dated 30.07.2018 passed by ASJ/Special Judge, North District, Rohini Courts, New Delhi, in SC no. 57403/2016 arising out of FIR no. 186/2010 registered under Sections 308/147/148/149/34 IPC at P.S. North Rohini, Delhi.

2. Vide the impugned order on sentence, the appellants were sentenced to undergo RI for a period of 3 years alongwith fine of Rs.5,000/- each in default thereof to undergo further SI for a period of 6 months for the offence punishable under Section 308/34 IPC. The benefit of Section 428 Cr.P.C. were granted to the appellants.

The sentences of the appellants were suspended during pendency of the present appeal by this Court vide order dated 18.03.2019.

3. Briefly put, the case of the prosecution is that on 17.07.2010 at about 9:00PM, in front of A-1/471, Sector-6, Rohini, Delhi, some boys were teasing a girl. A friend of *Surinder* objected to their conduct, which led to a



quarrel. The boys then started beating *Surinder's* friend, *Jitender*. When *Surinder* intervened to rescue his friend, the boys beat *Surinder* with *dandas*, causing him injuries. *Surinder* was taken to BSA Hospital for treatment. His father, *Megh Raj*, lodged a complaint with the police, pursuant to which an FIR was registered.

4. In support of its case, the prosecution examined 13 witnesses, the complainant, *Megh Raj*, who is also the father of the injured, was examined as PW-1. *Surinder*, the injured, was examined as PW-2. Dr. Akash Jain and Dr. Kuldeep Singh, who proved the MLC of the PW-2, was examined as PW-6 and PW-11 respectively. *Jitender*, who was initially beaten by the appellants, was examined as PW-8. The rest of the witnesses were formal in nature and deposed as to various aspects of the investigation.

The appellants were examined under Section 313 Cr.P.C., wherein they denied all incriminating circumstances and claimed false implication.

5. A perusal of the record indicates that the testimony of the injured witness, PW-2 inspires confidence. PW-2 has given a clear, consistent and detailed account of the incident. PW-2 correctly identified the appellants in Court. The version of PW-2 stands duly corroborated by the testimony of PW-1, who reached the spot immediately after the incident and removed the injured to the hospital. It is further corroborated by the medical evidence, particularly the MLC (Ex. PW-11/1) and the opinion of PW-6, which record multiple lacerated wounds on the scalp and other parts of the body and opined the injuries to be grievous in nature. The prosecution case is further corroborated by the recovery of the *dandas*, at the instance of the appellants, as proved through the testimonies of PW-3 and PW-9. The defence plea of



false implication has remained unsubstantiated and unsupported by any material on record.

Having considered the material placed on record, this Court concurs with the findings of the trial court and finds no grounds to interfere with the same are made out. Consequently, the conviction of the appellants is upheld qua the offence under Sections 308/34 IPC.

6. Learned counsel for the appellants, on instructions from the appellants, submits that they do not wish to press the appeal on merits and confine their prayer to seeking release on probation. It is prayed that the benefit of Section 4 of the Probation of Offenders Act, 1958 be extended to them.

7. Learned APP for the State, on instructions, submits that the appellants are not convicted in any other case.

8. Pursuant to this Court's directions, the Social Investigation Report of the appellants has been received from the Probation Officer, Rohini Courts, Delhi.

As per the report concerning appellant no.1/*Hanish@Sonu*, he is 36 years of age, educated upto 12th class, and resides at H. No. 281, Village Mangl Pur Kalan, Delhi. He is currently running a boys PG accommodation earning approximately Rs.40,000/-. His family comprises of his aged mother and bears the responsibility of an aged uncle, who is mentally retarded. The report further records that the economic condition of the appellant is good and he is stated to be physically and mentally fit. It is also noted that he is not involved in any other case. His behaviour is described as normal and socially appropriate, and his family and neighbours have also expressed a favourable opinion about him.



As per the report concerning appellant no.2/*Ajeet*, he is 37 years of age, educated upto 10th class, and resides at H. No. 281, Village Mangl Pur Kalan, Delhi. The report further records that the appellant is working as a private yoga instructor and he earns Rs.20,000/-. The economic condition of the appellant is average and he is stated to be physically and mentally fit. It is also noted that he is not involved in any other case. His behaviour is described as normal and socially appropriate, and his neighbours have also expressed a favourable opinion about him.

As per the report concerning appellant no.3/*Vipin Kumar @Rinku*, he is 38 years of age, educated upto 12th class, and resides at H. No. 301, Village Mnagl Pur Kalan, Delhi. He is the sole breadwinner of his family working as a private driver earning Rs.15,000/-. He lives with his family comprises of his wife and 2 minor daughters. The economic condition of the appellant is not good and he is stated to be physically and mentally fit. It is also noted that he is not involved in any other case. His behaviour is described as normal and socially appropriate, and his family and neighbours have also expressed a favourable opinion about him.

All the appellants are reported to have been facing trial since 2010 and are stated to be of normal social behaviour. Their families and neighbours have spoken positively about their conduct and expressed a favourable opinion regarding their reformation and adjustment in society. The Probation Officer has stated that there is a possibility of rehabilitation and reformation in respect for all the appellants.

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 Sections 308/34 IPC does not prescribe any minimum sentence. Given that even otherwise, the offence does not carry a mandatory minimum sentence, the Court retains discretion to extend the benefit of probation to the appellant, provided the circumstances justify such relief.

11. Having regard to the nature of the offence, the period of custody undergone, and the overall findings of the Social Investigation Report, as well as the legal position *qua* the applicability of Probation of Offenders Act as iterated above, this Court is persuaded to adopt a reformatory approach. The appellants have been living peacefully in society, have maintained a stable occupation, and is the sole breadwinners of their families. The Probation Officer's report further affirms his good conduct, normal social behavior, and positive inclination towards reformation.

12. Accordingly, while upholding the judgment of conviction and order on sentence passed by the learned Trial Court, the sentence imposed upon the appellants is modified to the extent that they shall be released on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958, upon furnishing a probation bond in the sum of Rs.10,000/- each, with one surety each in the like amount, to the satisfaction of the Trial Court within six weeks from today. He shall maintain peace and good behaviour

¹ 1 (2021) 2 SCC 763



for a period of one year and shall not commit any offence during the period of probation.

13. The appeal and all pending applications, if any, stand disposed of in the above terms.

14. 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

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