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

+ **CRL.A. 923/2016**

DILSHAD & ORS

.....Appellant

Through: Ms. Siddhi Popli, Advocate and Mr. Manish, Advocates , with appellants in person.

versus

STATE

.....Respondent

Through: Ms. Shubhi Gupta, APP for State, with SI Jitender Kumar, PS Nangloi,

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

04.12.2025

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1. By way of the present appeal, the appellants seek to assail the judgment of conviction dated 30.08.2016 and the order on sentence dated 31.08.2016, passed by the learned ASJ-05 (West), Tis Hazari Courts, Delhi, in Sessions Case No. 46/15, arising out of FIR No. 139/2015, registered at P.S. Nangloi, under Sections 307/34 IPC. By the impugned judgment, all three appellants, namely Dilshad, Shehzad and Naushad, were held guilty for the offences punishable under Sections 323/324/34 IPC, and were acquitted of the charge under Section 307 IPC.
2. Vide the order on sentence dated 31.08.2016, all the appellants were sentenced to undergo two years' Rigorous Imprisonment with a fine of Rs.3,000/- each under Section 324/34 IPC, and in default, to undergo 15 days'



Simple Imprisonment. Further, they were sentenced to undergo one year's Rigorous Imprisonment with a fine of Rs.500/- each under Section 323/34 IPC, and in default, to undergo 10 days' Simple Imprisonment. Both sentences were directed to run concurrently, and the appellants were extended the benefit of Section 428 Cr.P.C. The fine amount stands duly paid as recorded in the said order on sentence.

3. During the pendency of the present appeal, the sentence imposed upon the appellants was suspended by this Court vide order dated 29.09.2016, whereupon the appellants were released on bail.

4. Vide order dated 22.09.2025, it was recorded that the death of appellant/Shehzad has been verified. Accordingly, the proceedings qua appellant/Shehzad stand abated.

5. The prosecution case, briefly stated, is that on 16.02.2015, the complainant, Gulzar (PW-1), was allegedly assaulted outside his residence at X-193, JJ Colony, Nangloi, following a verbal altercation. It is the case of the prosecution that the appellants restrained the complainant and caused injuries with a knife and an iron rod, resulting in an incised wound to the abdomen and a CLW on the scalp.

6. In support of its case, the prosecution examined seven witnesses, comprising the complainant, a related witness, police officials and medical witnesses. PW-1, the complainant, narrated the alleged incident and identified both appellants as the persons who had stopped him, assaulted him and robbed him. He further described the sequence of events leading to the lodging of the FIR. PW-2, the father of the complainant, supported the prosecution version to



the extent of the complainant reaching home injured and informing him of the incident, however, he resiled from portions of his earlier statement recorded during investigation. On account of these inconsistencies, PW-2 was declared hostile and was cross-examined by the learned Additional Public Prosecutor. The medical evidence was brought on record through PW-5 and PW-6, who proved the MLC of the complainant and opined on the nature, extent and cause of injuries. Their testimonies confirmed that the injuries were consistent with the manner of assault described by PW-1, and the MLC was duly exhibited. The investigative steps were proved primarily through PW-7, the IO, who deposed regarding receipt of the complaint, registration of the FIR, preparation of the site plan, examination of witnesses, arrest of the accused, and documentation of procedural steps under Section 161 Cr.P.C. The remaining witnesses were formal or police witnesses who produced the official record and supported the procedural aspects of the prosecution case.

7. In their statements recorded under Section 313 Cr.P.C., the convicts denied all incriminating circumstances put to them and claimed false implication. They asserted that the alleged injuries sustained by the complainant were either self-inflicted or caused during a scuffle which took place after the complainant and his family members allegedly misbehaved with the sister of the convicts. In support of their defence, the convicts examined two witnesses. DW-1 Ms. Shafiqan, a resident of the same locality, deposed that she saw the complainant with a “*blade type article*” in his hand and claimed that the injuries caused to him were self-inflicted. DW-2 Shaukat Ali, also a local resident, testified that he heard noise and later saw a scuffle between the complainant and the



convicts. He further stated that the complainant had come downstairs already smeared with blood.

8. The Trial Court examined the evidence and concluded that although the prosecution failed to establish the allegation of an offence under Section 307 IPC, the ocular testimony of PW-1 coupled with medical evidence was sufficient to convict the appellants under Sections 323/324/34 IPC.

9. Upon re-appraisal of the record, this Court finds no reason to interfere with the findings of the Trial Court in so far as the conviction under Sections 323/324/34 IPC is concerned.

10. The appellants are present in person and have been duly identified by the IO. Learned counsel for the appellants, upon receiving instructions, submits that all three appellants are not involved in any other criminal case. He further submits that the appellants do not wish to press the appeal on merits and confine their submission to seeking benefit under the Probation of Offenders Act, 1958. It is submitted that the fine amount as imposed by the Trial Court has been deposited.

11. Learned APP for the State confirms, on instructions, that the appellants are not found involved in any other case.

12. Pursuant to this Court's directions, the Social Investigation Report (SIR) submitted in respect of convict Dilshad reflects that he is approximately 42 years of age, has studied till 3rd standard and resides with his family at H. No. X-189, JJ Colony, Camp No.1, Nangloi, Delhi. The report records that he is unmarried and contributes to the family income by engaging in small-scale LED bulb manufacturing. The family consists of aged parents and three



unmarried sisters who are stated to be financially and socially dependent upon him and his brother. The SIR notes that Dilshad's behaviour during the interview was normal. The neighbourhood feedback collected by the Probation Officer indicates that the neighbours have a positive attitude towards him. The report further notes that Dilshad does not have any other criminal case pending against him and is assessed as having stable community ties and a supportive family environment. The Probation Officer accordingly finds Dilshad suitable for supervision-based reform and recommends consideration for release on probation.

13. The Social Investigation Report submitted for convict Naushad similarly records that he is about 33 years old, unmarried, has studied till 5th standard and is residing at the same address as his family. He is stated to be a toy sales worker. His monthly income is about Rs. 15,000/-. The SIR notes that Naushad's conduct during the interview was calm and reflective, and he expressed remorse for the circumstances leading to his conviction. His family background is described as socio-economically modest, with financial dependency primarily based on the income generated collectively by the brothers. Community feedback reflected in the SIR describes Naushad as normal. The report confirms that no other criminal case is registered against him. The Probation Officer concludes that Naushad demonstrates positive social support potential for successful reintegration if placed under supervision, and therefore recommends that he is also suitable for release on probation.

14. 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. 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.

15. Pertinently, in the present case, the conviction of the appellants is under Sections 323/324/34 IPC, neither of which prescribes any mandatory minimum sentence. The punishment provisions empower the Court to award imprisonment, fine, or both. It is well settled that the provisions of the Probation of Offenders Act, 1958 operate harmoniously with substantive criminal law, and the benefit of probation may be extended in all cases where the statute does not expressly prohibit its application or mandate compulsory incarceration. In the absence of any statutory bar against extending probation in respect of the offences under Sections 323/324 IPC, this Court retains full discretion to consider release on probation, provided the facts and mitigating circumstances warrant such exercise.

16. Having regard to the appellants' lack of prior criminal involvement, their age at the time of the incident, the favourable observations recorded in the Social Investigation Report, and their family responsibilities, this Court is persuaded to adopt a reformatory approach.

17. Accordingly, while affirming the judgment of conviction dated 30.08.2016 and the order on sentence dated 31.08.2016, the substantive sentence of imprisonment 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 separate probation bonds in the sum of Rs.10,000/- each with one surety of the like amount, to the satisfaction of the Trial Court, within four weeks from today. During the period of probation, the appellants shall maintain peace and good behaviour and shall not involve themselves in any criminal activity.

18. The appellant shall remain under the supervision of the concerned Probation Officer for a period of six months, 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 originally awarded by the Trial Court.

19. The appeal stands disposed of in the above terms.

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

MANOJ KUMAR OHRI, J

DECEMBER 4, 2025

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