



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

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Date of Decision: 22.12.2025

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CRL.A. 548/2017

GULZAR SINGH

.....Appellant

Through: Mr. Dhan Mohan Singh, Advocate,
Mr. Tanisha Bhatia, Ms. Nikita Jha,
Ms. Anjai Chaudhary, Akash Yadav and
Mr. Mohit Gupta alongwith appellant
through VC from Jail

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present appeal, the appellant seeks to assail the judgement of conviction dated 01.04.2017 and order on sentence dated 13.04.2017 passed by ASJ (FTC), Tis Hazari Courts, Delhi, in SC no. 56613/2016 arising out of FIR no. 383/2011 registered under Sections 392/394/397 IPC at P.S. Tilak Nagar, Delhi.
2. Vide the impugned order on sentence, the appellant is sentenced to undergo RI for a period of 5 years alongwith fine of Rs.3,000/- for the offence punishable under Section 394 IPC and in default of payment of fine, to undergo SI for a period of 2 months. Further, directed to undergo RI for a period of 7 years alongwith fine of Rs.5,000/-, in default thereof would undergo SI for a



period of 3 months for the offence punishable under Section 397 IPC. The benefit of Section 428 Cr.P.C. was granted to the appellant.

The sentences of the appellant was suspended during pendency of the present appeal by this Court vide order dated 20.05.2020.

3. Briefly put, the case of the prosecution is that on 31.10.2011, upon receipt of DD No. 88B, SI Manoj Chahar reached Mukhram Park Extension, Tilak Nagar, Delhi, where Ct. Sandeep Kumar informed him that the injured had already been shifted to Deen Dayal Upadhyaya Hospital by a PCR van. SI Manoj Chahar proceeded to the hospital and recorded his statement. The complainant stated that at about 9:40 PM, while he was on his way to Fair Deal Medicos, and upon reaching in front of House No. WZ-13, Hind Nagar, a person came from behind, put a knife on his neck, and snatched his mobile phone. When he resisted, the assailant inflicted a knife injury and fled. The complainant raised an alarm and chased the assailant, during which a police person joined him. After some distance, the assailant was apprehended. The complainant was thereafter taken to the hospital by the PCR van. On the basis of the complainant's statement, the present FIR registered.

4. In support of its case, the prosecution examined 6 witnesses. The most material among them was the complainant, *Chanderjeet Jha*, who was examined as PW-2. Dr. Nishu Dhawan, who had examined the complainant, was examined as PW-4. Rajesh Shukla, the resident of the area from where the appellant was apprehended after the chase, was examined as PW-6. The remaining witnesses were formal in nature and deposed regarding various aspects of the investigation.



In his statement recorded under Section 313 Cr.P.C, the appellant claimed innocence and false implication. He did not lead any evidence.

5. A perusal of the record indicates that the testimony of the complainant is cogent, credible, and inspires confidence. He has consistently deposed about the incident and has specifically attributed a clear role to the appellant, stating that he put a knife on his neck, snatched his mobile phone, and inflicted a knife injury while committing the robbery. The complainant duly identified the appellant in Court as well as the mobile phone and knife recovered during the investigation. The testimony of complainant stands duly corroborated by PW-3, who was on patrolling duty at the relevant time and joined the complainant in chasing and apprehending the appellant at the spot. PW-3 proved the recovery of the robbed mobile phone and the knife from the possession of the appellant. Further corroboration is found in the testimony of PW-6, an independent public witness. The medical evidence, proved through PW-4, also lends support to the prosecution case, as the MLC records a cut incised wound, opined to be caused by a sharp weapon, thereby fully corroborating the account of the complainant regarding the use of a knife and the causing of hurt during the robbery. The defence plea of false implication was found to be unsubstantiated.

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 appellant is upheld qua the offence under Sections 394/397 IPC.

6. Learned counsel for the appellant, on instructions from the appellant, who has been produced through VC from CJ-3 Tihar by Warden Rinku,



submits that the appellant, who has undergone more than 4 years of his sentence, does not wish to press the appeal on merits and confine his prayer to seeking release on probation. He submits that the fine already stands paid and refers to the nominal roll in this regard. It is prayed that the benefit of Section 4 of the Probation of Offenders Act, 1958 be extended to him. It is further submitted that the appellant undertakes to deposit the fine.

7. Learned APP for the State, on instructions, submits that the appellant is found to be involved in one other case, which is pending trial. However, there is no other conviction.

8. Pursuant to the directions of this Court, the Social Investigation Report of the appellant has been handed over by the Probation Officer, Tis Hazari Courts, Delhi, and is taken on record. As per the report, the appellant is 45 years of age, educated up to 10th standard, and is the owner of a house bearing H. No. 12/8-A, 2nd Floor, Tilak Nagar, Delhi, measuring approximately 100 square yards. It is further noted that the appellant is not convicted in any other case, though he has been found involved in one case relating to theft of a water meter and is currently in judicial custody in the said case. Prior to being in judicial custody, the appellant was earning approximately Rs.18,000 per month by working as a driver. His family comprises his aged mother and brother, and the economic condition of the family is poor. The report further records that the appellant's family members, relatives, and neighbours have spoken positively about his behaviour and conduct. The Probation Officer concludes that the appellant possesses positive social support, and shows good prospects of rehabilitation, and therefore finds him suitable for release on probation under



supervision.

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. 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.”

10. In the present case, the offence is under Section 394/397 IPC. It is pertinent to note that Section 394 IPC does not prescribe any minimum sentence. Though, Section 397 IPC prescribes a minimum sentence of 7 years.



Nevertheless, it is well settled that the provisions of the Probation of Offenders Act, 1958 are to be read harmoniously with the provisions of the Indian Penal Code, and that the benefit of probation can be extended wherever the statute does not specifically exclude its operation or prescribe a compulsory minimum punishment. The bar on the application of the Act arises only where a special statute enacted after 1958 prescribes a mandatory minimum sentence coupled with a non obstante clause and hence, this Court retains discretion to extend the benefit of probation to the appellant, provided the circumstances justify such relief.

11. Having regard to the facts and circumstances noted hereinabove, nature of the offence, the period of incarceration already undergone, the case has been pending since 2011 and the overall findings of the Social Investigation Report, as well as the legal position *qua* the applicability of Probation of Offenders Act, this Court is persuaded to adopt a reformatory approach. The appellant has been living peacefully in society, has maintained a stable occupation, and is the sole breadwinner of his family. 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 appellant is modified to the extent that he 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/-, with one surety in the like amount, to the satisfaction of the Trial Court within four weeks from today.



They shall maintain peace and good behaviour for a period of one year and shall not commit any offence during the period of probation.

13. Considering that the appellant is in judicial custody in another case, the Jail Superintendent is directed to take immediate steps to ensure that the appellant is taken to the Trial Court in custody forthwith to furnish the probation bond in compliance of this order. On furnishing of probation bond and the surety, the appellant be considered released in the present case. However, this would not affect his custody in the other case. It is also made clear that in the event of any breach of the conditions of probation 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.

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

15. A copy of this judgment be communicated to the Trial Court, the concerned Probation Officer, and to the appellant through the concerned Jail Superintendent.

DASTI

**MANOJ KUMAR OHRI
(JUDGE)**

DECEMBER 22, 2025

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