



2025:DHC:11916



* **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. 942/2018

MOHD. FIROJ

.....Appellant

Through: Mr.Mohd.Shamikh, Advocate with
appellant in person

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeal, the appellant seeks to assail the judgment of conviction and order on sentence dated 10.07.2018 passed by the learned District & Sessions Judge, North-East District, Karkardooma Courts, Delhi in SC No. 253/2017, arising out of FIR No. 746/16 registered at P.S. Bhajanpura, Delhi under Sections 308/323/341/34 IPC.

Vide order on sentence, the appellant was directed to undergo rigorous imprisonment for a period of two years with a fine of Rs. 10,000/- for the offence punishable under Section 308 IPC, in default thereof would further undergo simple imprisonment for a period of 3 months. The appellant is entitled to the benefit of Section 428 Cr.P.C.

2. Briefly put, the case of the prosecution is that on 22.12.2016, at about 9:30 PM, after finishing his work, the complainant reached his house and



found that the mother of the appellant was shouting at his wife, regarding her children. The complainant intervened, explained the matter to her, whereafter she apologized. In the meantime, co-accused *Firoz*, who was standing behind her, started abusing the complainant and his family. When the complainant questioned him, his brothers *Mohd. Shafiq* and *Mohd. Rashid* also arrived at the spot. Upon *Mohd. Shafiq* inquiring about the matter, co-accused *Firoz* picked up a brick lying nearby and struck *Mohd. Shafiq*. The complainant's nephew reached the spot and took the injured *Mohd. Shafiq* to the Trauma Centre.

3. In total, the prosecution examined 7 witnesses, including the injured, *Mohd. Tahir* and *Mohd. Shafiq*, who were examined as PW-1 and PW-2 respectively, they identified the appellant and the other co-accused. The rest of the witnesses were formal in nature and deposed as to various aspects of the investigation.

4. The statement of the appellant was recorded under Section 313 Cr.P.C. wherein he denied the prosecution case and claimed false implication. No defence evidence was led.

5. A perusal of the record indicates that the testimonies of PW1 and PW2 are consistent, cogent and inspires confidence. Both of them have identified the appellant. Their testimonies are also corroborated by the medical evidence on record. The MLC of PW-1 (Ex.PX), records minor abrasions of about .5cm on his forehead whereas, the MLC of PW-2 (Ex.PY) records injuries on the head, both injuries were opined to be simple in nature and the FSL Report (Ex. PZ) also confirmed the blood stains on the seized shirt (Ex.PW4/D) to be human blood. The defence's claim of false implication remains unsubstantiated. Consequently, the conviction of the



appellant is upheld qua the offence under Sections 308 IPC.

6. Learned counsel for the appellant, on instructions from the appellant who is present in Court, 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, submits that the Status Report is on record as per which the appellant has no other involvements.

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 appellant is aged 34 years, is a permanent resident of B-878, Gali No.13/11, Subhash Vihar, Ghonda Delhi. He resides with his aged mother, wife, 2 sons and 2 daughters. He is the sole breadwinner of his family and works as a bike mechanic in Gokalpuri Shop No.3 for the past 7-8 years earning about Rs.18,000/-Rs.20,000/- per month. He is physically and mentally fit, of normal social behaviour, does not smoke or consume alcohol, and is regarded in the community as law-abiding and well-behaved, with no prior criminal antecedents or other pending cases apart from the present one. In his statement, the appellant denied the allegations, asserting false implication which has given him severe mental trauma. The probation officer's assessment records him as having a stable family background, positive community image, and being the primary contributor to household



income, 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. 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 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. In view of the facts and circumstances of the case, the judgement of conviction and order on sentence are upheld. However, considering the nature of the injuries, 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 bond in the sum of Rs. 10,000/- to be paid within five 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.

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



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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.

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

13. 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
(JUDGE)

DECEMBER 22, 2025

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¹ 1 (2021) 2 SCC 763