



2025:DHC:12046



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

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Date of Decision: 23.12.2025

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**CRL.A. 1002/2017**

**YASIN & ANR**

.....Appellants

Through: Mr.Arun Kumar, Advocate with  
appellants in person

versus

**STATE**

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State with  
SI Shubham

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT (ORAL)**

1. The present appeal has been preferred by the appellants-*Yasin & Yamin* seeking to challenge the conviction dated 03.08.2017 as well as order on sentence dated 08.08.2017 vide which the appellants were convicted and sentenced to undergo RI for 2 years alongwith fine of Rs.5,000/-, for the offence under Section 308 IPC in default to undergo SI for 3 months. The appellants were further sentenced to undergo RI for 3 months alongwith fine of Rs.1,000/- for the offence under Section 323 IPC in default to undergo SI for 15 days.

While *Naem* was sent to Juvenile Court and co-accused Ishtiyak had filed criminal appeal no. 868/2017 came to be disposed of vide order dated 18.12.2025 by extending him the benefit of probation.

2. Briefly put, the case of the prosecution is that on 15.01.2014 at about 11:45 PM, while the complainant and others were cleaning their shop, *Jago*



*Mandal* went to a nearby shop to purchase gutka, where he had a scuffle with *Yamin*, who was residing in the same street. Thereafter, *Jago Mandal* returned to the shop. Shortly thereafter, *Yamin*, along with his brother *Yasin*, *Naeem*, and their associate *Ishtiyak*, came to the street outside the shop, where *Yamin* allegedly threatened to teach them a lesson. In the meantime, *Naeem* lifted a *palta* and moved it aimlessly, *Yasin* caught hold of *Amardeep*, *Naeem* then struck *Amardeep* with the *palta*. Thereafter, *Ishtiyak* caught hold of *Jago Mandal* and *Naeem* again struck him with the *palta*. The complainant handed over his mobile phone to a bystander, who informed the police by calling at 100 number. Consequently, an FIR was registered under Sections 308/323/34 IPC, and the injured persons were taken to LNJP Hospital for medical examination.

3. In support of its case, the prosecution examined 15 witnesses. The most material among them were the injured witnesses, *Mohd. Anis*, who was examined as PW-1, and *Deepak Jain*, who was examined as PW-2. *Sonu Jain*, the brother of the injured *Deepak Jain*, who reached the spot immediately after the incident and took him to the hospital, was examined as PW-10. Dr. *P. Ashwin Kumar*, who proved the MLCs of the injured, was examined as PW-9, while Dr. *Deepak Agrawal*, who proved the CT scan report and opined upon the nature of injuries sustained by *Deepak Jain* to be grievous, was examined as PW-12. *Amardeep*, examined as PW-6, turned hostile. The remaining witnesses were formal in nature and deposed regarding various aspects of the investigation.

In their statement recorded under Section 313 Cr.P.C, the appellants claimed innocence and false implication. They did not lead any evidence.

4. A perusal of the record indicates that the testimonies of the injured



witnesses, namely PW-2, PW-4 and PW-7, are cogent, credible and inspire confidence. Their testimonies corroborated the presence, participation and common intention of the appellants in the commission of the offence. The evidence also stands corroborated by the medical evidence. As per the MLCs exhibited as Ex. PW5/A and Ex. PW5/B, the injured sustained lacerated wounds on the scalp, and the subsequent medical opinion proved through PW-3 opines the injuries to be grievous in nature. The weapon of offence, namely the iron *palta*, was also opined to be capable of causing such injuries.

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 308/323/34 IPC.

5. Learned counsel for the appellants, on instructions from the appellants who are present in Court, submits that the appellants are not involved in any other criminal case and they further do not wish to press the appeal on merits and confines their prayer to seek release on probation. It is stated that lenient view be taken considering the family composition and that 11 years have gone by, since the commission of offence. It is also stated that fine amount has already been paid the receipts have already been placed on record.

6. Learned APP for the State refers to the status report placed on record to affirm that the appellants are not involved in any other case.

7. A Social Investigation Report had been requisitioned from the concerned Probation Officer and was received in Court on the last date of hearing. The said report bears the signatures of Mr. Kuldeep Dahiya ,



Probation Officer, Delhi.

8. Pursuant to the direction of this Court, the Social Investigation Report that has been placed on record in respect of appellant-*Yasin* and the report in respect of appellant-*Yamin* has been handed over in Court and is taken on record. The report indicates that the appellant *Yasin* is the resident of village *Barvandpur, PS Gulawti, District Bulandshar, U.P.* The report mentions that the appellant is gainfully employed as tailor. His family is settled in their permanent house in the village on a 50 square yard plot. They do not have a farm land. The appellant often visits his family in the village and is presently residing in Delhi alongwith his wife and children. His father is aged 50 years and earns his livelihood by complying e-rikshaw. The appellant's mother expired about 15 years back.

As per the report of the appellant's elder brother *Yamin*, in the present appeal, appellant no. 2 also lives in Delhi alongwith his wife and children and earns his livelihood by doing tailoring work. is also residing in Delhi along with his wife and children and earns his livelihood by tailoring work. The appellant earns approximately Rs.15,000/- to Rs.16,000/- per month and has to maintain his wife and a son aged about 5 years. The home environment of the appellant has been described as stable, with adequate basic facilities. The Probation Officer has opined that the appellant has a supportive family background, a suitable social environment, and demonstrates potential for improvement and rehabilitation

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.,<sup>1</sup> 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. In the present case, the conviction is under Section 308/323/34 IPC. 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. Considering the above 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.

12. Accordingly, the impugned order on sentence is modified to the extent that the appellants 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/- each, with one surety of the like amount each, to the satisfaction of the Trial Court, within a period of five weeks

13. 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.

With the above directions, the present appeal stands disposed of.

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<sup>1</sup> 1 (2021) 2 SCC 763



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14. A copy of this order be communicated to the concerned Jail Superintendent.

15. A copy of this order also be communicated to the Trial Court and the concerned Probation Officer for information and compliance.

**MANOJ KUMAR OHRI**  
**(JUDGE)**

**DECEMBER 23, 2025/sn**

Signature Not Verified

Signed By: NIJAM UDDEEN  
ANSARI  
Signing Date: 02.01.2026  
14:58:28

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