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

+ CRL.A. 1069/2017

GULFAM

.....Appellant

Through: Mr. Arun Sharma, Advocate

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Through: Mr. Pradeep Gahalot, APP for State

16

+ CRL.A. 1070/2017

MOHD.SHAKEEL

.....Appellant

Through: Mr. Arun Sharma, Advocate

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Through: Mr. Pradeep Gahalot, APP for State

17

+ CRL.A. 1071/2017

ALLAUDIN

.....Appellant

Through: Mr. Arun Sharma, Advocate

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Through: Mr. Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

18.12.2025

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1. The present batch of appeals arises from a common judgment dated



07.10.2017 and order on sentence dated 31.10.2017 passed by the learned Additional Sessions Judge-02, Central District, Tis Hazari Courts, in Sessions Case No. 28625/2016 arising out of FIR No. 224/2009 registered at P.S. Burari under Sections 308/323/325/452/34 IPC.

2. The three appellants herein faced trial along with co-convict/*Mohd. Laique* and co-accused/*Mohd. Saleem*. The proceedings *qua* co-accused/*Mohd. Saleem* abated following his death during pendency of the trial. Vide the impugned order on sentence, the three appellants and co-convict/*Mohd. Laique* were sentenced as under:-

- i. RI for a period of 3 years along with fine of Rs.10,000/-, in default thereof to undergo SI for 3 months, under Section 452 IPC;
- ii. RI for a period of 3 years along with fine of Rs.10,000/-, in default thereof to undergo SI for 3 months, under Section 308 IPC;
- iii. RI for a period of 3 years along with fine of Rs.10,000/-, in default thereof to undergo SI for 3 months, under Section 325 IPC; and
- iv. RI for a period of 6 months for the offence punishable under Section 323 IPC.

The sentences of each appellant were directed to run concurrently *inter se* and the benefit under Section 428 Cr.P.C. was granted to them. Out of the total fine amount recovered from the convicts, a sum of Rs.20,000/- was directed to be paid to the State, and the rest of the amount recovered was directed to be split as follows: 50% to be paid to injured *Azmat Mirza* (PW-8); 40% to injured *Gulfam Khan* (PW-9); and 10% to injured *Shivgat Beg* (PW-10).

3. The facts of the prosecution case, as recorded by the Trial Court, are



reproduced hereunder:-

“Precisely, the case of the prosecution is that one Israr S/o Iqbal R/o Street no. 5, Sangam Vihar, Delhi was residing on rent with his family at the aforesaid address and was doing work of embroidery in the factory of one Azmat Mirza S/o Sanaullah Beg at house no. 476, Gali no. 6, Sangam Vihar, Wazirabad, Delhi. On 16.07.2009 in afternoon, wife of Shakeel, who was residing in front of his house, quarreled with his wife over some issue between his daughter and daughter of Shakeel, but the same was subsided. After that, at about 10:00 pm, when Shakeel returned back from his job, he, his wife and his brother-in-law Salim came in front of his house, abused his family members and went away. Thereafter, at about 12:00 am, Shakeel and Salim with some of their accomplices, having rods and dandas in their hands, forcibly entered into his house in his absence and they gave beatings to his wife and daughter. After that, they entered into the house of Azmat and badly beaten Azmat, his brother Mirza Shivgat Beg and their servant Gulfam with rods, dandas and stones causing serious injuries to them and ran away. The aforesaid facts were reported by Israr to the police on 17.07.2009 at 03:30 am and on his statement, a case FIR No. 224/09 u/s 452/308/34 IPC was registered in PS Burari. The matter was investigated, accused persons Allauddin, Mohd. Gulfam, Mohd. Laique, Mohd. Salim and Mohd. Shakeel were arrested and weapons of offence were recovered. After completion of investigation, police filed charge sheet against them u/s 308/323/325/452/146/147/148 & 149 IPC in the court of Ld. Area Magistrate.”

4. The prosecution examined 20 witnesses in support of its case. The complainant/Israr (PW-7) narrated the incident in detail and proved his statement recorded by the first I.O. (Ex. PW-7/A). The complainant's wife, Nafisa, was examined as PW-19. The injured witnesses, Azmat Mirza, Gulfam Khan, and Shivgat Beg, were examined as PW-8, PW-9, and PW-10 respectively, and they corroborated the version put forth by the complainant. Dr. Satender Kumar was examined first as PW-1-A and proved the MLCs of injured Gulfam Khan as Ex. PW-1-A/A, injured Azmat Mirza as Ex. PW-1-1/B, and injured Shivgat Beg as Ex. PW-1-1/C. Dr.



Kumar was again examined as PW-11, whereby he identified the handwriting of Dr. *Himanshu Jain*, who had provided his opinion as to the nature of the injuries sustained by the injured persons on their MLCs. PW-2 and PW-16 are the medical witnesses who deposed with respect to the X-rays of the injured witnesses. The first I.O. of the case, ASI *Sanjay Kumar*, was examined as PW-4, and the second I.O. of the case, SI *Ravinder Singh*, was examined as PW-20. The remaining witnesses are police officials who deposed as to various aspects of the investigation.

5. In their respective statements recorded under Section 313 Cr.P.C., all incriminating evidence against the accused persons was put to them and their explanations were recorded. The appellant/*Gulfam* examined DW-1, DW-2, DW-3, and DW-5 in his defence; the appellant/*Allauddin* examined DW-4 in his defence; the co-convict/*Mohd. Laique* examined DW-6, DW-7, and DW-8 in his defence; and the appellant/*Mohd. Shakeel* did not lead any defence evidence.

6. All three injured witnesses (PW-8, PW-9, and PW-10) duly identified the three appellants in Court, and after consideration of the entirety of the material on record, the Trial Court held that their testimonies corroborated each other on the core allegations of the appellants trespassing into the factory and giving blows to the injured witnesses with weapons. It is settled law that the testimony of an injured witness stands on a higher pedestal. The Trial Court found the testimonies of PW-8, PW-9, and PW-10 to be credible and reliable insofar as the core allegations against the appellants were concerned and the plea of *alibi* put forth by the appellants was disbelieved as the same was not taken at the first instance. The prosecution case was also supported by the medical evidence on record, with the respective MLCs of



the injured witnesses (proved by Dr. *Satender Kumar*/PW-1-A) noting injuries consistent with the prosecution version of events. Dr. *Kumar*, deposing as PW-11, proved the opinions regarding the nature of injuries suffered by PW-8, PW-9, and PW-10. The injuries sustained by *Gulfam* were opined to be grievous in nature, whereas the injuries of *Azmat* were opined to be dangerous, and those of *Shivgat* were opined to be simple. Considering the aforesaid, the Trial Court convicted the appellants under Sections 308/323/325/452 IPC read with Section 34 IPC.

7. Upon examination of the record of proceedings and re-appraisal of the evidence, especially the testimony of the injured witnesses who not only identified all three appellants in Court but also deposed cogently and consistently about the core allegations in question; as well as the MLCs of the said witnesses that corroborate the prosecution version of events; this Court finds no reason to interfere with the well-reasoned conclusions of the Trial Court *qua* the conviction of the appellants under Sections 308/323/325/452 IPC read with Section 34 IPC. The same is accordingly upheld.

8. Learned counsel for the appellants, on instructions from the appellants who are present in person, states that the appellants have not been convicted in any other case and reiterates the appellants' prayer that they may be considered for grant of probation under the Probation of Offenders Act, 1958 ("Probation Act"). He further states that the fine imposed upon the appellants by the Trial Court has already been paid. The receipts *qua* payment of fine have been handed over, and the same are taken on record.

9. Learned APP for the State, on instructions, confirms that the appellants have no involvements other than the present case. Status reports



in this regard are already on record.

10. Pursuant to this Court's directions, Social Investigation Reports were requisitioned from the concerned Probation Officer for all three appellants and the same have been received. The said reports bear the signatures of Mr. Kuldeep Dahiya, Probation Officer, Tis Hazari Courts.

11. As per the reports, the appellant/*Gulfam* (43-year-old, married) resides with his wife, two daughters, and two sons, in a flat owned by him. He earns Rs.15,000/- per month through his *kirana* shop and his family's total monthly income is Rs.24,000/-. The appellant's family as well as his neighbours have spoken positively about his behaviour and conduct. The appellant has assured that he will keep away from anti-social activities and has undertaken to maintain good behaviour in the future.

Appellant/*Mohd. Shakeel* (49-year-old, married) resides with his wife, two daughters, and one son, in a flat admeasuring 25 gaz. owned by him. He works as a painter, is the sole breadwinner of his family, and earns Rs.15,000/- per month. The financial condition of the appellant's family is stated to be unsatisfactory, and all family members are dependent upon the limited earnings of the appellant for their sustenance. The appellant is attached to his family and has stated that he spends a majority of his leisure time with them.

Appellant/*Allauddin* (50-year-old, married) resides with his wife, two daughters, and three sons, in a flat admeasuring 50 gaz. owned by him. He manages to earn Rs.20,000/- per month, working as a cart vendor, and the total income of his family is about Rs.30,000/- per month. He enjoys a good reputation among his family members as well as in the neighbourhood, and there are no concerns regarding his mental health or stability.



12. While all three appellants are from economically modest backgrounds, they are stated to be mentally fit, of normal social behaviour, and polite in their interactions. Their families and neighbours have spoken positively about their conduct and expressed a favourable opinion regarding their reformation and adjustment in society.

13. 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. This Court has the discretion to extend the benefit of probation to the appellants herein, provided the circumstances justify grant of such relief.

14. In the present case, all three appellants enjoy the confidence and goodwill of their family members and neighbours, who have spoken favourably of their conduct and prospects of rehabilitation. None of the appellants have any other involvements and all three of them, as per their respective nominal rolls, maintained satisfactory conduct during their respective periods of incarceration. The concerned Probation Officer has opined that there is a possibility of rehabilitation and reform *qua* all the three appellants.

15. 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 appellants 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 appellants an opportunity to demonstrate their reformation.

16. Accordingly, the impugned order on sentence is modified to the extent that the appellants are granted the benefit of probation under Section



4 of the Probation Act for a period of 1 year, on their furnishing 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 a period of six weeks.

17. With the above directions, the present appeals stand disposed of.

18. Subject to furnishing probation bonds as directed above, the respective personal bonds furnished by the appellants against suspension of their sentences stand cancelled and their sureties are discharged.

19. The Trial Court shall ensure that the fine amounts deposited by the appellants are proportionately disbursed to the victim/injured as noted in the order on sentence, if not already done.

20. A copy of this order be communicated to the Trial Court, the concerned Jail Superintendent, and the concerned Probation Officer.

MANOJ KUMAR OHRI, J

DECEMBER 18, 2025

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