2026:AHC:226878

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2487 of 1984

Man Singh And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Abhinav Singh, S.K. Agarwal
Counsel for Respondent(s)	:	A.G.A.

Court No. - 86

HON'BLE JAI KRISHNA UPADHYAY, J.

1. Sri Abhinav Singh, Advocate has filed Vakalatnama on behalf of appellant no.4, is taken on record.

2. This criminal appeal has been filed against the judgement and order dated 24.08.1984 passed by 6th Additional Sessions Judge, Muzaffarnagar in Sessions Trial No. 495 of 1982 whereby the appellant nos. 1 and 2, namely, Man Singh and Dharamvir, respectively, were convicted under Sections 308/34 I.P.C. and sentenced to undergo three years rigorous imprisonment. Appellant nos. 3 and 4, namely Smt. Vidya and Ran Kunwar @ Ran Singh, respectively, had also been convicted under Section 308/34 I.P.C. but they had been granted benefit of first offender probation Act and had been released for maintaining good conduct for a period of two years. They had been directed to execute personal bonds and two sureties each amounting to Rs. 2,000/-. They had been further directed to appear before the Court concerned whenever called to receive sentence in case of any breach of the conditions of the bonds executed by them.

3. Heard Sri Abhinav Singh, learned counsel for the appellant nos.2 and 4, namely, Dharamvir and Ran Kunwar @ Ran Singh, respectively and Sri Ramesh Kumar, learned A.G.A. for the State.

4. Learned counsel for the appellants submits that appellant nos. 1 & 3, namely, Man Singh and Smt. Vidya, respectively have died during the pendency of this appeal and appeal qua them stood abated by this Court vide order dated 17.12.2025.

5. So far as appellant nos. 2, namely, Dharamvir is concerned, the only submission is that for the offence under Section 308/34 I.P.C., he was sentenced for three years rigorous imprisonment out of which he had served

incarceration of one month. It is also submitted that neither appellant is habitual offender nor was convicted in any other case. It is further submitted that appellant is above 70 years of age and suffering from several old age ailments. Thus, it was submitted by learned counsel that sentence awarded by the trial Court vide impugned judgment and order be modified and appellant no.2 be released in this matter on the basis of incarceration period already undergone.

6. So far as, appellant no.4 Ran Kunwar @ Ran Singh is concerned, he was also convicted under Section 308/34 I.P.C. but he had been granted benefit under the Probation Act, 1958 and had been released for maintaining good conduct for a period of two years. He had been directed to execute personal bonds and two sureties each amounting to Rs. 2,000/-. He had also served incarceration of about 15 days. Learned counsel urged that since appellant no.4 has successfully completed the probation period without any breach of impugned order, therefore, the said order releasing him may not be interfered by this Court.

7. On the other hand, learned A.G.A. supporting the findings recorded by trial Court in the impugned judgment and order submitted that there is no infirmity or illegality in the impugned judgement and order. Prosecution has proved its case beyond reasonable doubt. The trial Court has awarded sentence to the appellant no.2 according to the gravity of the offence committed by him. So far as appellant no.4 Ran Kunwar @ Ran Singh is concerned, he had also been convicted under Section 308/34 I.P.C. but he had been granted benefit of first offender probation Act and had been released for maintaining good conduct for a period of two years.

8. I have considered rival submissions made by learned counsel for the parties and have gone through the entire record carefully.

9. Since learned counsel for the appellants did not challenge the findings recorded by trial Court in the impugned judgment and order regarding guilt of appellants for the alleged offences and confined his argument only to the sentence awarded by trial Court to accused-appellant no.2 and benefit of probation given to appellant no.4, I do not propose to scrutinize the entire evidence minutely in this regard. However, a perusal of entire record including the impugned judgment and order shows that trial Court has considered in detail the entire evidence available on record regarding guilt of accused-appellants for the said offences and keeping in view the offence committed by accused-appellants, I am also of the opinion that prosecution was able to establish the guilt of accused-appellants for the aforesaid offences beyond reasonable doubt. The findings recorded by the trial Court

to constitute offence under Sections 308/34 I.P.C. against accused-appellants are correct and the same do not warrant interference by this Court.

10. So far as the question of sentence is concerned, it is a well settled principle that sentence must be just and should simultaneously follow the principle of proportionality between the crime and the punishment. Punishment cannot be totally brushed aside. The principle of just punishment is the bedrock of sentencing in respect of a criminal offence. A punishment should not be disproportionately excessive. The concept of proportionality allows a significant discretion to the court but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, manner of crime, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect-propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability of the doctrine of bringing the convict to the value based social mainstream may be the guiding factors. Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner.

11. It has been observed by the Hon'ble Apex Court that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalised judicial discretion. Neither the personal perception of a Judge nor selfadhered moralistic vision nor hypothetical apprehensions should be allowed to have any play. For every offence, a drastic measure cannot be thought of. Similarly, an offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court. The real requisite is to weigh the circumstances in which the crime has been committed and other concomitant factors which have been indicated hereinbefore and also have been stated in a number of pronouncements by Apex Court. On such touchstone, the sentences are to be imposed. The discretion should not be in the realm of fancy. It should be embedded in the conceptual essence of just punishment. A court, while imposing sentence, has to keep in view the various complex matters in mind. In respect of certain offences, sentence can be reduced by giving adequate special reasons but the special reasons have to rest on real special circumstances.

12.Recently in the case of **Israfil @ Pappu @ Naimuddin Khan Vs. State of Madhya Pradesh, 2026 INSC 654,** the Apex Court held that while considering the question of sentence, the Court is required to balance the nature of the offence with the attendant facts and circumstances of the case,

the role attributed to the accused, the period of incarceration undergone, the passage of time and other mitigating circumstances relevant to sentencing jurisprudence. The principle of proportionality remains central to the sentencing process. Sentencing cannot be reduced to a purely retributive exercise divorced from the factual matrix of the case and the overall circumstances of the offender. The Apex Court, in catena of cases before it, while maintaining conviction, had exercised its discretion and had reduced the substantive sentence considering long passage of time, absence of criminal antecedents and other mitigating circumstances.

13. In the instant case, the alleged incident took place around 44 years back. Accused-appellants alone cannot be held responsible for long delay in disposal of this case. Appellants are not previous convicts. Appellant no.2 Dharamvir is above 70 years of age and is suffering from several old age ailments. He had served the incarceration of one month during trial. Appellant no.4, Ran Kunwar @ Ran Singh is aged around 56 years and he had already served the period of 15 days imprisonment during trial before being granted the benefit under the Probation Act. Considering all aspects of the matter, no useful purpose would be served by sending accused-appellant no.2 to judicial custody at this stage, rather it would be appropriate that sentence of three years rigorous imprisonment awarded by the Trial Court be reduced to the period already undergone by him. So far as conviction awarded to the accused-appellant Ran Kunwar @ Ran Singh is concerned, his released on probation as ordered by the trial Court does not warrant any interference and is hereby affirmed.

14. Accordingly, this criminal appeal is **partly allowed**. The conviction of the appellant no. 2 is upheld and the sentence awarded by the Trial Court is hereby reduced to the period already undergone by him. His personal and surety bonds are cancelled and sureties are discharged. The order granting benefit under the Probation Act to the appellant no.4 by trial Court is hereby affirmed and he stands discharged of his bonds.

15. A copy of this order be transmitted to the court concerned.

November 2, 2026
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(Jai Krishna Upadhyay,J.)

Digitally signed by :-
ASHOK KUMAR TRIPATHI
High Court of Judicature at Allahabad