



2026:DHC:2898



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

% *Date of Decision: 07.04.2026*

+ **CRL.REV.P. 208/2026 & CRL.M.A. 10528/2026**

PINNU SINGH

.....Petitioner

Through: Mr. Jaspreet Singh Kapur and Ms.
Shweta, Advocates

versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents

Through: Mr. Amit Ahlawat, APP for the State
with SI Ankit Sharma, PS Fatehpur
Beri.

CORAM: JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

1. Petitioner (*complainant de facto before the trial court*) has assailed judgment dated 28.02.2026 of the learned appellate court, whereby the sentence awarded by the trial court was modified by extending benefit under the Probation of Offenders Act.

2. Having heard learned counsel for petitioner, but I do not find it a fit case to even issue notice.



3. Broadly speaking, circumstances relevant for present purposes are that in trial arising out of FIR No. 42/2009 of Police Station Fatehpur Beri, the present respondent no. 2 was convicted by the learned trial Magistrate for offence under Section 420 IPC, but was acquitted as regards offence under Section 468/471 IPC. The learned trial Magistrate by way of order dated 15.09.2023 imposed sentence of simple imprisonment for three years plus compensation to the tune of Rs. 6,50,000/- to be paid to the complainant *de facto* (*the present petitioner*). The present respondent no. 2 preferred an appeal before the learned Court of Sessions. By way of the judgment impugned in the present case, the learned appellate court upheld the conviction, but modified the sentence by maintaining the payment of compensation of Rs. 6,50,000/- to the present petitioner and extending the benefit of Section 4 of the Probation of Offenders Act to the present respondent no. 2. Hence, the present petition.

4. Learned counsel for petitioner on instruction admits that the compensation as awarded stands paid, but contends that the appellate court failed to appreciate that the trial court had recorded specific reasoning for not extending the benefit of Probation of Offenders Act. It is also contended that even the compensation awarded to the present petitioner (*the complainant de facto of the State case*) was on lower side, so the appellate court ought to have enhanced the compensation amount. It is contended that the impugned judgment is liable to be set aside and the present respondent no. 2 is liable to undergo simple imprisonment for three years. However, it is also admitted that the present petitioner never approached any court with



challenge to the quantum of compensation.

5. At the outset, the scope of the revision proceedings has to be kept in mind and that scope is extremely limited. This Court, while exercising revisional jurisdiction under Section 438 BNSS (Section 397 CrPC) cannot adjudicate on the basis of criteria contemplated for appellate jurisdiction.

6. The learned Court of Sessions in the impugned judgment observed that there was no plausible explanation in the order on sentence passed by the trial court for declining the probation application of the present respondent no. 2. I am in complete agreement with this view of the learned Court of Sessions. For ready reference, the relevant portion of trial court order on sentence is extracted below:

“In the considered opinion of this court, after taking into consideration the nature and gravity of the offence for which the convict has been convicted and the pecuniary loss suffered by the complainant, time taken for disposal of the case and expenses incurred by the complainant and State in litigation, this court does not deem it to be fit case for consideration of release of convict Braham Singh on probation or after admonition. His application under section 3 & 4 of The Probation of Offenders Act, 1958 r/w Section 360 CrPC is hence, dismissed.”

7. The provision under Section 402 BNSS (Section 361 CrPC) enjoins upon the trial court duty to record special reasons for not extending the benefit of probation to a person entitled to the same under the provisions of Probation of Offenders Act or under Section 401 BNSS (Section 360 CrPC). It is not for grant of probation, but for denial of probation that the trial court is under a duty to record special reasons. In other words, grant of probation



in the specified offences is the rule while denial thereof is an exception, to be supported by special reasons. It must be kept in mind that what the legislature mandates under Section 402 BNSS (Section 361 CrPC) is not just the “reasons” but the “special reasons”. The “special” reasons are those reasons, which would show that the convict stands beyond the possibility and scope of reformation or that grant of probation would be counterproductive or harmful for the society.

8. As extracted above, the learned trial Magistrate did not record any reason, what to say of special reason for denying the benefit of probation to the present respondent no. 2. The pecuniary loss suffered by the complainant, expenses incurred by the complainant and the State in litigation and the time taken for disposal of the case are not the factors which are inconsonant with grant of probation. None of those factors has any logical connection with the reformatory approach towards a criminal. Rather, the factors like time taken by the State for disposal of trial can be a ground to grant but cannot be a ground to deny probation, because delay in trial in itself is punitive.

9. On the other hand, in the impugned judgment the learned Court of Sessions gave detailed reasons for grant of benefit of probation, which are extracted below:

“It is not in dispute that convict and victims are known to each other belonging to same village. The FIR pertains to year 2009 and appellant has been facing trial before Ld. Trial Court since 2011, when he was 52 years of



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age. By now in 2026, the age of the appellant must be around 67 years. Appellant/convict has already suffered long trial of more than 15 years. Appellant/convict and complainant are neighbors and accordingly in order to avoid any further animosity between neighbors, appellant/convict deserve an opportunity to reform himself, at this elderly age. Appellant has shown his repentance to the offence and assured not to repeat the same in future. In the facts and circumstances of the present case, considering the nature of offence, age of the convict, long trial of 15 years, I am of the considered opinion to extend benefit of probation to appellant/convict as the present case pertains to financial embezzlement owing to a property dispute and no forgery has been established.”

10. I am unable to find any illegality, incorrectness or impropriety in the impugned judgment so the same is upheld. The present revision petition is completely devoid of merits and is frivolous, so dismissed. Accompanying application also stands disposed of.

**GIRISH KATHPALIA
(JUDGE)**

APRIL 7, 2026
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