



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

% Date of Decision: 07.11.2025

+ **CRL.A. 620/2016**

NAVEEN

.....Appellant

Through: Mr. Kapil Yadav, Mr. Ashish
Sehrawat, Mr. Nikhil Yadav and Mr.
Ravi Kumar, Advs. alongwith
appellant (through VC)

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State,
with SI Anuj P.S. Timarpur

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal has been filed under Section 374 Cr.P.C. assailing the judgment dated 16.05.2016 and the order on sentence dated 27.05.2016 passed by the learned ASJ-03, Tis Hazari Courts, Delhi, in Sessions Case No. 116/11 arising out of FIR No. 114/2010, registered at P.S. Timar Pur, Delhi.
2. Vide the order on sentence, the appellant was convicted for the offence punishable under Section 397 IPC and sentenced to undergo RI for a period of 7 years and for the offence punishable under Section 394/34 IPC, he was directed to undergo RI for a period of 5 years alongwith fine of Rs.20,000/- in default whereof, he was to undergo SI for 6 months. The benefit of Section 428 Cr.P.C. was granted to the appellant and both the



sentences were directed to run concurrently.

During the pendency of the present appeal, the sentence of the appellant was suspended by this Court, vide order dated 11.10.2021, and he was released on bail.

3. Briefly put, the case of the prosecution is that vide DD No. 38-A, information was received from Duty Constable posted at the Trauma Centre Hospital, regarding the admission of *Nga Soching Zimik*, after sustaining stab injuries during a quarrel. The said information was assigned to SI *Manchand*, who, along with ASI *Anand*, reached the hospital and collected the MLC No. 123236 of the injured. The doctor mentioned that the injuries were caused by a sharp and penetrating object, and the patient was declared unfit for statement. At the spot, the police found eye-witness *A.S. Wung Naoso Zimik*, who produced a written statement stating that around 8:30 PM, he and his friend *Nga Soching Zimik* were returning after dropping his friend at Nehru Vihar, two persons came from behind and snatched the victim's mobile phone and wallet containing Rs.3,500/-. One of the assailants took out a sharp-edged weapon and stabbed the victim in the stomach before fleeing with his belongings, including mobile phone. The injured was taken to Durga Hospital, Mukherjee Nagar, and thereafter shifted to the Trauma Centre by a PCR van. On the basis of his statement, the present case was registered.

4. In support of its case, the prosecution examined 24 witnesses to prove its case. The most material among them was the injured, *Nga Soching Zimik*, who was examined as PW-1. He correctly identified the appellant in court. The medical witnesses included Dr. *Asit*, examined as PW-7; Dr. *Dheeraj*, examined as PW-10, who initially treated the injured and prepared the MLC;



and Dr. *Kamlesh*, examined as PW-18, who opined that the injury sustained by the victim was dangerous in nature. The remaining witnesses were formal in nature and deposed regarding various aspects of the investigation. The remaining witnesses were formal in nature and deposed as to various aspects of the investigation.

In his statement recorded under Section 313 Cr.P.C, the appellant claimed innocence and false implication due to non-fulfilment of illegal demand of police.

5. A perusal of the record indicates that the testimony of PW-1 remained consistent, credible, and genuine. He correctly identified the appellant as the person who stabbed him. The medical evidence supports the victim's version of being stabbed with a sharp-edged weapon. The knife recovered from the appellant was found to have human blood. PW-10 examined the victim and found a 5 cm penetrating stab wound on the abdomen, and the injury was opined to be dangerous by PW-18. Upon the appellant's arrest, the police recovered a knife and a mobile phone, and it was established that the said mobile phone did not belong to him but was part of the robbed articles of PW-1. The appellant used a knife during the robbery and caused dangerous injury to the appellant. The appellant acted together with the co-accused to commit this act, and the defence failed to establish their plea of false implication or police framing.

In view of the above, the conviction of the appellant under Sections 397/394/34 IPC is upheld.

6. Learned counsel for the appellant, on instructions from the appellant who is present and has been identified by the I.O., submits that the appellant does not wish to press the appeal on merits and confines his prayer to



seeking release on probation. It is further submitted that the appellant has no other conviction. 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 has handed over a status report, as per which the appellant has other involvements, however, he has not been convicted in any of them.

8. Pursuant to this Court's directions, the Social Investigation Report of the appellant, received from the Probation Officer, Tis Hazari Courts, is on record. As per the report, the appellant is 37 years of age, has studied up to 7th class, and resides at his own house situated at H. no. 309, *Gali* no.7, Jagatpura Burari, Delhi. His family comprises of his aged mother, wife and two sons aged 13 years and 3 years respectively. The report further records that the appellant maintains normal social behaviour, speaks politely, and is viewed positively by his neighbours and family members, who describe his behaviour as satisfactory. The appellant has been facing trial since 2010 and has already undergone a substantial portion of his sentence. He has denied the charges against him but has assured that he will maintain good behaviour and affirmed his commitment to live as a law-abiding citizen. He has suffered socially, mentally, and economically throughout the period of trial, and there is a possibility of rehabilitation and reformation in this case.

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. Vs. State of Punjab & Anr., reported as (2021) 2 SCC 763, has extended the benefits of the Probation Act even to convicts who had not completed the



mandatory minimum sentence of seven years as prescribed in Section 397 IPC, since IPC was enacted before the Probation Act came into being.

The relevant extract is reproduced hereunder:-

“16. ... A more nuanced interpretation on this aspect was given in CCE v. Bahubali¹⁵. It was opined that the Act may not apply in cases where a specific law enacted after 1958 prescribes a mandatory minimum sentence, and the law contains a non obstante clause. Thus, the benefits of the Act did not apply in case of mandatory minimum sentences prescribed by special legislation enacted after the Act.¹⁶ It is in this context, it was observed in State of M.P. v. Vikram Das⁶ that the court cannot award a sentence less than the mandatory sentence prescribed by the statute. We are of the view that the corollary to the aforesaid legal decisions ends with a conclusion that the benefit of probation under the said Act is not excluded by the provisions of the mandatory minimum sentence under Section 397 IPC, the offence in the present case. In fact, the observation made in Joginder Singh v. State of Punjab¹⁷ are in the same context.

...

18. We, thus, release the appellants on probation of good conduct under Section 4 of the said Act on their completion of half the sentence and on their entering into a bond with two sureties each to ensure that they maintain peace and good behaviour for the remaining part of their sentence, failing which they can be called upon to serve that part of the sentence.”

10. In the present case, the offence is under Section 397/394/34 IPC. It is pertinent to note that Section 394/34 IPC does not prescribe any minimum sentence. Though, Section 397 IPC prescribes a minimum sentence of seven years. Nevertheless, it is well settled that the provisions of the Probation of Offenders Act, 1958 are to be read harmoniously with the provisions of the Indian Penal Code, and that the benefit of probation can be extended wherever the statute does not specifically exclude its operation or prescribe a compulsory minimum punishment. The bar on the application of the Act arises only where a special statute enacted after 1958 prescribes a mandatory minimum sentence coupled with a non obstante clause and hence, this Court



retains discretion to extend the benefit of probation to the appellant, provided the circumstances justify such relief.

11. The nominal roll of the appellant dated 31.07.2024, records that the appellant has undergone more than 6 years and 10 months including remission earned, his conduct in the last one year has been noted as satisfactory, and his sentence had been suspended during the pendency of the present appeal, with nothing to show that he violated the conditions of his release.

12. Having regard to the nature of the offence, the period already undergone, and the overall findings of the Social Investigation Report, as well as the legal position *qua* the applicability of Probation of Offenders Act as iterated above, this Court is persuaded to adopt a reformatory approach. The appellant has been living peacefully in society, has maintained a stable occupation, and is the sole breadwinner of his family. The Probation Officer's report further affirms his good conduct, normal social behaviour, and positive inclination towards reformation.

13. Accordingly, while upholding the judgment of conviction and order on sentence passed by the learned Trial Court, the substantive sentence of imprisonment imposed upon the appellant is modified to the extent that he shall be released on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958, upon furnishing a probation bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Trial Court within four weeks from today. The appellant is further directed to pay the fine imposed, if not already paid. He shall maintain peace and good behaviour and shall not commit any offence during the period of probation.



2025:DHC:9823



14. The appellant shall remain under the supervision of the concerned Probation Officer for a period of three months and shall report before the Probation Officer once every month. In case 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 sentence as awarded by the Trial Court.

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

16. 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)

NOVEMBER 7, 2025
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