



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

% Date of Decision: 08.10.2025

+ **CRL.A. 303/2017**

MANJEET SINGH .....Appellant  
Through: Mr. Ajay Goshwami, Advocate

versus

THE STATE (GOVT. OF NCT OF DELHI) .....Respondent  
Through: Mr. Pradeep Gahalot, APP for State,  
with SI Rohitash, P.S. Neb Sarai

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

**JUDGMENT (ORAL)**

1. By way of the present appeal, the appellant seeks to assail the judgment of conviction dated 16.02.2017 and order on sentence dated 21.02.2017 passed by the learned Additional Sessions Judge – SFTC, South District, Saket Courts, New Delhi in SC No. 27/2016, arising out of FIR No. 03/2016 registered at P.S. Neb Sarai under Sections 451/506/354B IPC.

Vide the impugned order on sentence, the appellant was directed to undergo RI for a period of 1 year alongwith fine of Rs.5,000/-, in default whereof he would undergo SI for 1 month, for the offence punishable under Section 451 IPC. He was further sentenced to undergo RI for a period of 1 year alongwith fine of Rs.5,000/-, in default whereof he would undergo SI for 1 month, for the offence punishable under Section 354 IPC. Both sentences were ordered to run concurrently and benefit under Section 428 Cr.P.C was extended to the appellant. The aforesaid fine amounts were



directed to be paid to the prosecutrix as compensation under Section 357(1)(b) Cr.P.C.

The sentence of the appellant was suspended pending disposal of the present appeal vide order dated 13.04.2017.

2. The case of the prosecution, briefly stated, is that in the intervening night of 31.12.2015 and 01.01.2016, at about 3:00-4:00 A.M., the appellant entered the house of the prosecutrix, knocked on the door of her room, and upon her opening it, pushed her inside, tore her T-shirt, pressed her breasts, and inserted his finger into her vagina. The prosecutrix raised an alarm, whereafter her father and brother came and apprehended the appellant, who was then handed over to the police.

3. The prosecution, in support of its case, examined 10 witnesses, including the prosecutrix (PW-1), her father (PW-2), and her brother (PW-6). The prosecutrix gave a detailed account of the incident and the sequence of events leading to the apprehension of the appellant. Her father and brother corroborated her version to the extent that, on hearing her cries, they reached the room and found the appellant inside, whom they then caught and handed over to the police. Dr. *Tarinin Sonwani*, examined as PW-8, proved the MLC of the prosecutrix. PW-9 W/SI *Asha*, the I.O. of the case, along with the other police officials (PW-7 and PW-10), deposed as to various aspects of the investigation, including the seizure of the prosecutrix's torn T-shirt, the arrest of the appellant, and the preparation of the site plan. The remaining witnesses were formal in nature.

4. After completion of the prosecution evidence, the statement of the appellant was recorded under Section 313 Cr.P.C., wherein he denied all allegations put to him and claimed false implication. The appellant



examined three defence witnesses, his mother (DW-1) and two of his friends (DW-2 and DW-3), who supported the defence version that the appellant had been falsely implicated owing to the family of the prosecutrix disapproving of his relationship with the prosecutrix's younger sister.

5. On an appraisal of the evidence, this Court finds that the Trial Court rightly discarded the allegation of penetrative sexual assault in view of its belated introduction. However, the remaining evidence of PW-1, PW-2, and PW-6 is consistent and mutually corroborative on the essential facts of the appellant's unlawful entry into the house and his use of criminal force upon the prosecutrix. Their version is further strengthened by the contemporaneous seizure of the torn T-shirt and the appellant's apprehension from the spot. No material contradiction has been elicited in their cross-examinations and the defence explanation fails to inspire confidence. On an overall consideration of the record, this Court finds no ground to interfere with the conviction of the appellant, and the matter now turns to the question of sentence.

6. Learned counsel for the appellant, on instructions from the appellant, who has joined the proceedings through VC and has been duly identified by the I.O., seeks his release on probation of good conduct under the Probation of Offenders Act, 1958 (hereinafter "Probation Act").

7. The learned APP for the State has handed over a status report regarding other involvements of the appellant, and the same is taken on record. It reflects that the appellant has no criminal antecedents apart from the present case.

8. A Social Investigation Report bearing the signatures of Ms. *Shivani Bist*, Probation Officer, South District (Saket Courts), has been placed on



record. The report records that the appellant, aged 37 years, is married and resides with his wife and two children. His parents live on the ground floor of the same premises, while his younger brother lives separately on the second floor. The appellant has studied up to Class XII, belongs to an economically modest Hindu family, and is employed in a private company earning approximately Rs. 32,000/- per month. His father, aged about 58 years, suffers from high blood pressure and diabetes, while his mother, aged about 51 years, has thyroid issues. His wife and children are in good health. The appellant is described as physically and mentally fit, and his temperament has been observed to be balanced, social, and normal. He reflects non-toxicant habits and spends his leisure time with his family and close friends.

9. The concerned report further notes that the appellant is a first-time offender with no prior criminal record, and that he remained in judicial custody for a period of 3 months and 22 days in 2016. His neighbours have described him as a good man, social and responsible, and he is the sole earning member of his nuclear family. His family members, including his wife and parents, have given a favourable account of his conduct and expressed satisfaction with his behaviour. His father-in-law has also given a positive report. The Probation Officer observed that the appellant maintains a positive and optimistic outlook, has expressed regret over the circumstances leading to the case, and has assured that he will conduct himself responsibly in the future. It has been further noted that the appellant has faced social and mental hardship since 2016 owing to the pendency of the case, and that institutional detention may not yield any rehabilitative benefit at this stage. His economic condition is modest, and he continues to



bear responsibility for his parents, wife, and two children. The Probation Officer has opined that there exists a good chance of reformation if the appellant remains under proper supervision and guidance and has recommended that he be considered for release on probation under Section 4(3) of the Probation Act.

10. 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. Bahubali<sup>15</sup>. 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.<sup>16</sup> It is in this context, it was observed in State of M.P. v. Vikram Das<sup>6</sup> 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 Punjab<sup>17</sup> 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.”*

11. Pertinently, in the present case, Section 451 does not prescribe a mandatory minimum sentence. Though Section 354 IPC prescribes a mandatory minimum sentence of one year, it must not be lost sight of that the IPC, having been enacted prior to the coming into force of the Probation Act, must be read harmoniously with the latter statute. The bar on the application of the Probation Act arises only where a special statute enacted after 1958 prescribes a mandatory minimum sentence coupled with a non obstante clause. Thus, this Court retains discretion to extend the benefit of probation to the appellant, provided the circumstances justify such relief.

12. In the facts and circumstances of the present case, a gainful reference may also be made to the decision in Kanwar Pal Singh Gill Vs. State, reported as **(2005) 6 SCC 161**, wherein the Supreme Court upheld the grant of probation to an individual convicted under Section 354 IPC.

13. The nominal roll dated 17.09.2025 reflects that the appellant has undergone 3 months and 22 days of the sentence and has no other pending case or prior conviction. His conduct in jail is reported as satisfactory. The appellant is a married man, aged 37 years, supporting his wife, two minor children, and aged parents, and is engaged in private employment earning Rs. 32,000/- per month. The Probation Officer has specifically submitted that the appellant may be considered for release on probation.

14. Bearing in mind that a portion of the testimony of the prosecutrix was partly disbelieved to the extent that there were material improvements, as already noted hereinabove, and keeping in view the overall facts and



circumstances of the case, this Court is of the considered view that no purpose would be served by requiring the appellant to undergo further incarceration. The underlying object of the Probation Act, being to reform and rehabilitate first-time offenders, would be best served by affording the appellant an opportunity to prove his reformation.

15. Accordingly, while upholding the judgment of conviction dated 16.02.2017 and the order on sentence dated 21.02.2017, the sentence imposed on the appellant is modified to the extent that he is granted the benefit of probation under Section 4 of the Probation Act for a period of 9 months, on his furnishing a personal bond in the sum of Rs.10,000/- with one surety of the like amount to the satisfaction of the Trial Court within a period of four weeks from today.

16. The appellant shall remain under the supervision of the concerned Probation Officer for a period of 1 year, and shall report before the Probation Officer once every month. 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.

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

18. A copy of this judgment be communicated to the Trial Court as well as the concerned Jail Superintendent.

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

**OCTOBER 08, 2025**

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