



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

% Date of Decision:12.11.2025

+ **CRL.A. 807/2016**

MOHSIN AHMAD

.....Appellant

Through: Mr. Amit Kumar and Ms. Khushboo,
Advocates with appellant in person.

versus

STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Mr Pradeep Gahalot, APP for State
with SI Johny Kumar PS Uttam
Nagar, New Delhi(M:8447576757).

+ **CRL.A. 810/2016**

NEELAM

.....Appellant

Through: Mr. Amit Kumar and Ms. Khushboo,
Advocates with appellant in person.

versus

STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Mr Pradeep Gahalot, APP for State
with SI Johny Kumar PS Uttam
Nagar, New Delhi(M:8447576757).

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeals, the appellants assail the judgment of conviction dated 29.07.2016 and the order on sentence dated 30.07.2016 passed by the learned ASJ-05 (West), Tis Hazari Courts, Delhi in Sessions Case No. 64/15 (Old No. 19/12), arising out of FIR No. 199/2010 registered at P.S. Uttam Nagar under Sections 452/308/34 IPC. By the impugned



judgment, both appellants along with the co-accused *Zamil Ahmad*, were held guilty of offences punishable under Sections 308/34 and 451/34 IPC.

2. Vide the order on sentence, all three convicts, including the present appellants, were sentenced to undergo rigorous imprisonment for a period of three years with fine of Rs. 20,000/- each, and in default of payment of fine, to further undergo simple imprisonment for six months, for the offence under Section 308/34 IPC. They were further sentenced to undergo rigorous imprisonment for two years with fine of Rs. 1,000/- each, and in default to undergo simple imprisonment for seven days, for the offence under Section 451 IPC. The Trial Court directed that all sentences shall run concurrently and extended the benefit of Section 428 Cr.P.C. to the convicts.

3. During the pendency of the present appeals, the sentences imposed upon both appellants were suspended by this Court vide order dated 29.08.2016, and they were accordingly released on bail.

4. The prosecution case, briefly stated, is that on 18.06.2010 at about 2:45/3:00 PM, the complainant, Raj Wali Singh (PW-1), was present at his residence at L-3/4/6, Mohan Garden, Uttam Nagar, along with his daughter-in-law Suchita (PW-6). It is alleged that the appellant Neelam (wife of the complainant), accompanied by the co-accused Zamil Ahmad and Mohsin Ahmad, entered the premises and asked the complainant to vacate the house. Upon his refusal, Neelam allegedly slapped PW-6 and is stated to have instigated the co-accused to “finish” the complainant, whereafter Zamil and Mohsin purportedly assaulted him with wooden *dandas* on his head and other parts of the body. The complainant fell unconscious and was removed to DDU Hospital, from where he was referred to Safdarjung Hospital. As



per the prosecution, the motive behind the assault was a domestic and property dispute between the complainant and the appellant Neelam.

5. In support of its case, the prosecution examined thirteen witnesses. PW-1, the complainant, narrated the alleged assault and attributed specific roles to each accused. PW-6 Suchita (daughter-in-law of PW-1) corroborated the version of PW-1. PW-2 Manish (son of PW-1) deposed regarding receiving a call from PW-6 and informing the police through DD No.19A. The police witnesses, including PW-5 Ct. Jitender, PW-7 SI Yogesh Kumar and PW-10 Retd. SI Nahar Singh, proved the steps taken during investigation, including the alleged recovery of a cricket wicket and a wooden cot-leg (“*sheru*”) from the spot. PW-8 and PW-12 proved the MLC, while PW-11 Dr. Amit Aggarwal opined that the injuries were “dangerous” based on NCCT findings. The remaining witnesses were formal in nature.

6. In their statements under Section 313 Cr.P.C., both appellants denied all incriminating circumstances. Appellant Neelam stated that she had been falsely implicated owing to matrimonial discord and a property dispute with the complainant (PW-1). She claimed that on the date of the incident she was not present at the spot and had been visiting the residence of DW-1 Arti, from where she later returned only after receiving information about her husband’s injury. She further alleged that PW-1, along with their son and daughter-in-law, had conspired to implicate her to pressurise her into transferring the property. Appellant Mohsin Ahmad also denied the prosecution allegations and asserted that he had no involvement in the incident. It was additionally stated through co-accused Zamil Ahmad that he was under medical treatment at Charu Clinic, Pandav Nagar, from 11:00 a.m. to 8:00 p.m. on the date of the incident and therefore could not have



participated in any assault. There was also one Dr. R.K. Bhatnagar examined in defence.

7. The Trial Court, upon an appraisal of the evidence, held that the prosecution had proved that the appellant Neelam, along with co-accused Zamil Ahmad and Mohsin Ahmad, had entered the complainant's residence and caused injuries to PW-1 in furtherance of their common intention. The Trial Court relied principally upon the testimonies of PW-1 and PW-6 and found them to be consistent and trustworthy. The Court also held that the recoveries of the cricket wicket and cot-leg from the spot corroborated the prosecution version. Relying upon the medical opinion describing the injuries as "dangerous", the Trial Court concluded that the ingredients of Sections 308/34 IPC and 451/34 IPC stood satisfied.

8. Upon reappraisal of the record, this Court finds no infirmity in the appreciation of evidence by the Trial Court.

9. Learned counsel for the appellants, on instructions from both appellants who are present in Court and have been duly identified, submits that neither of the appellants is involved in any other criminal case. It is further submitted that the appellants do not wish to press the appeals on merits and confine their prayer to seeking release on probation. Learned counsel candidly states that the fine amounts imposed by the Trial Court have not yet been deposited, however, both appellants undertake to deposit the same within the time stipulated by this Court, in the event they are granted the benefit of probation. It is urged that both appellants have clean antecedents and that, having remained on bail throughout without any misuse, they be extended the benefit of Section 4 of the Probation of Offenders Act, 1958.



10. Learned APP for the State, on instructions, confirms that neither appellants are not found involved in any other criminal case.

11. Pursuant to this Court's directions, the Social Investigation Report (SIR) submitted in respect of appellant Mohsin Ahmad records that he is a 40-year-old married man, living with his mother, wife and three school-going children. He is educated up to 4th class and works both as a caretaker at a dargah in Haridwar earning Rs.25,000/- per month, and runs a small hair-cutting shop in Delhi. His home environment is stated to be stable. The Probation Officer notes that the appellant maintains normal social behaviour, is respectful, and has no past record. His family members and neighbours have expressed a positive attitude towards him. He is financially responsible for multiple dependents. The probation officer has stated in the report that there is a possibility of improvement and reform and rehabilitation in his case and if he is released on probation, he would be kept under supervision of a probation officer.

12. The SIR submitted in respect of appellant Neelam reflects that she is a 58-year-old divorced woman residing alone in a 15 yard accommodation at Uttam Nagar. She is educated up to 5th class and earns Rs.12,000/- per month working as a nanny. The report notes that she maintains normal social behaviour and that has no criminal antecedents. Neighbours have spoken favourably about her conduct. Her physical and mental condition is stated to be satisfactory. The probation officer has not found any defects in her conduct, he has stated that there is a possibility of reform and rehabilitation in her case.



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. 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.”

14. Pertinently, in the present case, neither Section 308 IPC nor Section 451 IPC prescribes any mandatory minimum sentence. The punishment under both provisions is flexible and leaves discretion with the Court to impose imprisonment, fine, or both. It is well-settled that the provisions of



the Probation of Offenders Act, 1958 operate harmoniously with the penal statute and that the benefit of probation may be extended in all cases where the statute does not expressly prohibit its application or mandate a compulsory minimum term of incarceration. In the absence of any such statutory restriction in Sections 308 or 451 IPC, this Court retains full discretion to consider the grant of probation, provided the circumstances of the case justify the exercise of such discretion.

15. The nominal rolls of the appellants, Mohsin Ahmad and Neelam, dated 08.10.2025 and 06.10.2025, have been perused. The nominal roll of appellant Mohsin Ahmad reflects that he has undergone custody for a period of 23 days. The nominal roll of appellant Neelam reflects that she has undergone a total custody period of 21 days. The records further confirm that neither appellant is involved in any other criminal case and that no proceedings are pending against them. It is also noted that the fine amounts imposed by the learned Trial Court have not yet been deposited, however, both appellants have undertaken to deposit the same within the period to be stipulated by this Court in the event the benefit of probation is granted.

16. Having regard to the absence of criminal antecedents, and the favourable recommendations recorded in the Social Investigation Reports, this Court is persuaded to adopt a reformatory approach. Although the fine amounts imposed by the Trial Court have not yet been deposited, which is recorded as Rs.21,000/- each, the appellants shall deposit the same as undertaken by them within four weeks from today with the Trial Court and provide receipt of such deposit as proof with the concerned IO.

17. Accordingly, while upholding the impugned judgment of conviction dated 29.07.2016 and the order on sentence dated 30.07.2016, the



substantive sentence of imprisonment imposed upon both appellants is modified to the extent that they shall be released on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958, upon furnishing probation bonds in the sum of Rs.10,000/- each with one surety in the like amount, to the satisfaction of the Trial Court, within four weeks from today. The appellants shall maintain peace and good behaviour during the period of probation and shall not commit any offence.

18. The appellants shall remain under the supervision of the concerned Probation Officer for a period of one 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 appellants shall be liable to undergo the remaining portion of the substantive sentence as awarded by the Trial Court.

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

20. 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 12, 2025/kb