

(2012) 10 DEL CK 0190
In the Delhi High Court
Case No : Criminal Rev. P. 491 of 2012

Surjeet Kaur

APPELLANT

Vs

Probation Officer and Another

RESPONDENT

Date of Decision : 15-10-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 360
Penal Code, 1860 (IPC) — Section 323, 506

Citation : (2012) 9 AD 283 : (2013) 2 JCC 1072

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : Anish Dhingra, DHLSC and Petitioner in person, for the Appellant;

Judgement

Manmohan, J.—Since on the last date of hearing, petitioner and her son were arguing contrary to the legislatively approved concept of

probation, this Court had asked the petitioner as to whether she would be willing to engage a legal aid lawyer from the Delhi High Court Legal

Services Committee. Though on the last date of hearing, petitioner was agreeable, but it seems that she did not appear before the Secretary, Delhi

High Court Legal Services Committee as directed by this Court. In fact, in pursuance to the last order, Mr. Anish Dhingra, Advocate appointed by

the Delhi High Court Legal Services Committee enters appearance. However, petitioner, who is personally present in Court along with her son,

states that she has not engaged him and would like only her son to argue the matter. Keeping in view the aforesaid, Mr. Anish Dhingra, Advocate

is discharged from the case and petitioner and her son have been heard.

2. Present revision petition has been filed by the complainant against order dated 17th July, 2012 passed by learned Additional Sessions Judge,

Delhi, whereby appeal filed against order dated 27th February, 2012 passed by Metropolitan Magistrate was dismissed. The Metropolitan

Magistrate vide order dated 27th February, 2012 has released the respondent No. 2 on probation after convicting her under Sections 323 and

506 Part I IPC.

3. Petitioner and her son urge that the courts below could not have let off respondent No. 2 on probation after having convicted her. They also

state that as respondent No. 2 is young, hail and hearty, she is not entitled to the benefit of probation. They dispute the report of the Probation

Officer and state that same cannot be relied upon as its status is not same as that of a report of Vigilance Department of Government of India.

They lastly contend that the courts below have shown "miserliness" while granting compensation to the petitioner.

4. Having heard the petitioner and her son and having perused Section 360 Cr.P.C. as well as the Probation of Offenders Act, 1958, this Court is

of the view that courts below have committed no illegality or irregularity in giving benefit of probation to the respondent No. 2.

5. In the opinion of this Court, the benefit of Section 360 Cr.P.C. is to be given only after accused has been found guilty of having committed a

crime. Section 360 Cr.P.C. requires that due regard has to be given to the age, character, antecedents of the offender as well as the circumstances

in which the offence was committed before the benefit of probation can be granted to the convict. However, the convict does not necessarily have

to be sick or old or infirm to avail the benefit u/s 360 Cr.P.C.

6. In the present case, the Metropolitan Magistrate has after examining the report of the Probation Officer, given the benefit of Section 360

Cr.P.C. to the respondent No. 2.

7. It is pertinent to mention that in the present case the respondent No. 2 has faced trial for a long period of twenty-five years and she is now a

sixty-four years old widow lady who is also suffering from sugar and blood pressure problems. Further, she has been found doing selfless social

work by the Probation Officer.

8. Petitioner's allegation that court of Sessions did "miserliness" in granting compensation is not correct as the courts below have granted her total

compensation of Rs. 40,000/- for loss/injury in the criminal case along with Rs.

10,000/- towards the costs of proceedings. Consequently, this

Court is of the view that present case is without any merit and accordingly, the same is dismissed.

Order dasti.