

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-10-2026

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THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL RC No. 585 of 2022
CNR: {HCMA010540072022}

V.Jayabalan, S/o. Vallarakkan,
 No. 42, Gangadharan Street, Puzhal,
 Chennai - 600066.



Case QR

..Petitioner(s)

Vs

The State Rep By Inspector Of Police, K.7.I.C.F.
 Police Station, I.C.F. Chennai - 600038. (crime No.
 34 Of 2014)

..Respondent(s)

Prayer: This Criminal Revision Case is filed, against the judgement of conviction and sentence and order, dated 28.02.2022, made in CA.No.304 of 2019, by the XXI Additional Sessions Judge, City Civil Court, Chennai, confirming the judgement of conviction and sentence and order, dated 01.08.2019, made in CC.No.2708 of 2015, by the V Metropolitan Magistrate, Egmore, Chennai.

For Petitioner(s): Mr. H.Maruthiraj

For Respondent(s): Mr.M.Dinesh, Government Advocate (Criminal Side)

ORDER

1. This Criminal Revision Case is filed, against the judgement of conviction and sentence and order, dated 28.02.2022, made in CA.No.304 of 2019, by the XXI Additional Sessions Judge, City Civil Court, Chennai, confirming the judgement of conviction and sentence and order, dated 01.08.2019, made in CC.No.2708 of 2015, by the V Metropolitan Magistrate, Egmore, Chennai.



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2. The case of the Prosecution is that the Revision Petitioner is the accused.

One Mustafa Ali, Coworker was working in the Railways, along with the accused. During December 2013, the accused did not work properly and hence, the said coworker had given a complaint against the accused. On 13.01.2014, at about 11.30 a.m. when the said coworker was sitting and eating his food near SR Shop, the accused came there, abused him and assaulted on his head with a rod and thereafter, he was taken to the Hospital and he sustained two head injuries. After receipt of information, the Sub Inspector of Police, K-7 Police Station, Chennai-38 went to the Railway Hospital and recorded the statement of the injured and thereafter, came to the Police Station concerned and registered a case in Crime.No.34 of 2014 for the offences under Sections 294(b), 324 and 506(ii) of IPC, against the Revision Petitioner/accused. After completing the investigation, the said Sub Inspector of Police had laid the Charge Sheet, against the Revision Petitioner/accused, for the offences under Sections 294(b), 326, 341 and 506(ii) of IPC.

3. The case was taken on file in CC.No.2708 of 2015, by the V Metropolitan Magistrate, Egmore, Chennai and necessary charges were framed. The accused had denied the charges and sought for trial. In order to bring home the charges against the accused, the Prosecution had examined PW.1 to PW.5 and also marked Exs.P1 to P10 and Mo.1.

4. On completion of the evidence on the side of the Prosecution, the accused was questioned under Section 313 of Cr.PC, as to the incriminating



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circumstances found in the evidence of the prosecution witnesses and the accused had come with the version of total denial and stated that he had been falsely implicated in this case. On the side of the defence, neither any witness was examined nor any document was marked.

5. The Trial Court, after completing the trial, by the impugned judgement of conviction and sentence and order, had convicted and sentenced the Revision Petitioner/accused for the offence under Section 326 of IPC and to undergo imprisonment for three years and to pay a fine of Rs.500/-, in default to undergo simple imprisonment for one month and acquitted him for the offences under Sections 341, 294(b) and 506(ii) of IPC. In the appeal filed by the Revision Petitioner/accused, as against the impugned judgement of conviction and sentence and order of the Trial Court, the lower appellate court, by its impugned judgement of conviction and sentence and order, had confirmed the judgement of conviction and sentence and order of the Trial Court. Hence, this Criminal Revision Case has been filed by the Revision Petitioner/accused.

6. This court heard Mr. H.Maruthiraj, the learned counsel for the Revision Petitioner and Mr.M.Dinesh, the learned Government Advocate (Criminal Side) for the Respondent.

7. The learned counsel for the Revision Petitioner has submitted that the Probation of Offenders Act, 1958 (Central Act) (herein after referred to as the Act of 1958) can be made applicable to the present case, as held by



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Honourable Supreme Court, in **(2017) 2 SCC 198 (Mohd. Hashim Vs. State of UP)**. Thus, the learned counsel for the Revision Petitioner has

submitted that it is upon the discretion of the Court to grant the benefits of the said Act 1958 to the Revision Petitioner herein.

8. The learned counsel for the Revision Petitioner has further submitted that he does not want to press this Criminal Revision Case on merits and that the incident took place 12 years ago and that there is no further criminal antecedent against the Revision Petitioner during these years. The learned counsel for the Revision Petitioner has further submitted that the delay in trial deprives the right of the Revision Petitioner of speedy trial and that he may be given the benefit of first offender, by extending the benefits of the Probation of Offenders Act, 1958.

9. The learned counsel for the Revision Petitioner has further submitted that the Revision Petitioner is a first time offender and was not previously convicted in any case and that it is for the Court, which may consider the benefits of Section 4 of the Act of 1958 to the Revision Petitioner/accused.

10. On the other hand, the learned Government Advocate (Criminal Side) for the Respondent has submitted that there is no material irregularity or illegality, committed by the courts below and that keeping in view the evidence on record, the Revision Petitioner/accused was rightly convicted and sentenced by the courts below, as stated above and that the benefits of Section 4 of the Act of 1958 could be extended to the Revision Petitioner/accused, on certain



stipulations, as specified in Section 4 of the Act of 1958.

11. I have given my careful and anxious consideration to the contentions put forward by the learned counsel on either side and thoroughly scanned through the entire evidence available on record and also perused the impugned judgements of conviction and sentence.

12. After considering the arguments advanced by the parties and after perusal of the materials available on record, this court finds that apart from the merits of the case, in so far as the prayer of the learned counsel for the Revision Petitioner for providing benefits of Section 4 of the Act of 1958 to the Revision Petitioner/accused herein, is concerned, it is essential to discuss the legal position and law, as propounded by the Honourable Supreme Court, in its various decisions.

13. Sections 3 and 4 of the Probation of Offenders Act, 1958 are extracted hereunder:-

“3. Power of court to release certain offenders after admonition.-

"Where any person is found guilty of having committed an offence punishable under Section 379 or Section 380 or Section 381 or Section 404 or Section 420 of the Indian Penal Code, (45 of 1860) or any offence punishable with imprisonment for not more than two years, or with fine, or with both, under the Indian Penal code, or any other law, and no previous conviction is proved against him and the Court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence, and the character of the offender, it is expedient so to do, then, notwithstanding anything contained in any other law for the time being in force, the Court may, instead of sentencing him to any punishment or releasing him on probation of good conduct under section 4 release him after due admonition.



Explanation.-For the purposes of this Section, previous conviction against a person shall include any previous order made against him under this Section or Section 4.

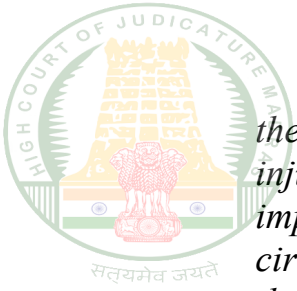
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4. Power of Court to release certain offenders on probation of good conduct.- (1) *When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the Court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the Court may direct, and in the meantime to keep the peace and be of good behaviour:*

Provided that the Court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the Court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond."

14. The Honourable Supreme Court in **AIR 1965 SC 444 (Ratan Lal vs State of Punjab)**, while discussing the purpose and object of the Probation of Offenders Act, 1958, was pleased to observe, in paragraph 4, as follows:-

"4. The Act is a milestone in the progress of the modern liberal trend of reform in the field of penology. It is the result of the recognition of the doctrine that the object of criminal law is more to reform the individual offender than to punish him. Broadly stated the Act distinguishes offenders below 21 years of age and those above that age, and offenders who are guilty of having committed an offence punishable with death or imprisonment for life and those who are guilty of a lesser offence. While in the case of offenders who are above the age of 21 years, absolute discretion is given to the court to release them after admonition or on probation of good conduct, subject to the condition laid down in the appropriate provision of



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the Act, in the case of offenders below the age of 21 years an injunction is issued to the court not to sentence them to imprisonment unless it is satisfied that having regard to the circumstances of the case, including the nature of the offence and the character of the offenders, it is not desirable to deal with them under Ss. 3 and 4 of the Act."

15. Further, the Honourable Supreme Court, in **(1981) 1 SCC 447 : AIR 1981**

SC 643 (Ved Prakash vs State of Haryana), while discussing on the duty of Bench and Bar, regarding compliance of Section 360 Code of Criminal Procedure, read with Section 4 of the Probation of Offenders Act, 1958, was pleased to observe as under:-

"The offence, for which conviction has been rendered, is one which will be attracted by S. 360 or at any rate the Probation of offenders Act, 1958. The materials before us are imperfect because the Trial Court has been perfunctory in discharging its sentencing functions. We must emphasise that sentencing an accused person is a sensitive exercise of discretion and not a routine or mechanical prescription acting on hunch. The Trial Court should have collected materials necessary to help award a just punishment in the circumstances. The social background and the personal factors of the crime-doer are very relevant although in practice Criminal Courts have hardly paid attention to the social milieu or the personal circumstances of the offender. Even if S. 360 Cr.P.C. is not attracted, it is the duty of the sentencing Court to be activist enough to collect such facts as have a bearing on punishment with a rehabilitating slant. The absence of such materials in the present case has left us with little assistance even from the counsel. Indeed members of the bar also do not pay sufficient attention to these legislative provisions which relate to dealing with an offender in such manner that he becomes a non offender. We emphasise this because the legislation which relate to amelioration in punishment have been regarded as 'Minor Acts' and, therefore, of little consequence. This is a totally wrong approach and even if the Bar does not help, the Bench must fulfil the humanising mission of sentencing implicit in such enactments as the Probation of offenders Act."

16. It is also noteworthy that the Allahabad High Court in **2015 Law Suit (All)**



1343 (Subhash Chand vs State of UP), had emphatically laid down the need to apply the law of probation and give the benefits of the beneficial legislation to the accused persons, in appropriate cases. The Allahabad High Court had issued the following directions to all the trial courts and the appellate courts:-

"It appears that the aforesaid beneficial legislation has been lost sight of and even the Judges have practically forgotten this provision of law. Thus, before parting with the case, this Court feels that I will be failing in discharge of my duties, if a word of caution is not written for the trial courts and the appellate courts. The Registrar General of this Court is directed to circulate copy of this Judgement to all the District Judges of U.P., who shall in turn ensure circulation of the copy of this order amongst all the judicial officers working under him and shall ensure strict compliance of this Judgement. The District Judges in the State are also directed to call for reports every month from all the courts, i.e. trial courts and appellate courts dealing with such matters and to state as to in how many cases the benefit of the aforesaid provisions have been granted to the accused. The District Judges are also directed to monitor such cases personally in each monthly meeting. The District Judges concerned shall send monthly statement to the Registrar General as to in how many cases the trial court/appellate court has granted the benefit of the aforesaid beneficial legislation to the accused. A copy of this order be placed before the Registrar General for immediate compliance."

17. Further, the Honourable Supreme Court in **(2004) 7 SCC 659 (State of Maharashtra vs Jagmohan Singh Kuldip Singh Anand)** had extended the benefits of the Probation of Offenders Act, 1958 to the appellants therein, and observed as under:-

"The learned counsel appearing for the accused submitted that the accident is of the year 1990. The parties are educated and neighbours. The learned counsel, therefore, prayed that benefit of the Probation of Offenders Act, 1958 may be granted to the accused."



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The prayer made on behalf of the accused seems to be reasonable. The accident is more than ten years old. The dispute was between the neighbours over a trivial issue of claiming of drainage. The accident took place in a fit of anger. All the parties educated and also distantly related. The accident is not such as to direct the accused to undergo sentence of imprisonment. In our opinion, it is a fit case in which the accused should be released on probation by directing them to execute a bond of one year for good behaviour."

18. Coming to the point of desirability of extending the benefits of the Probation of Offenders Act, 1958, to the accused, in **AIR 2005 SC 3534 (Sitaram Paswan and Anr v. State of Bihar)**, the Honourable Supreme Court was pleased to observe, as under:-

"For exercising the power which is discretionary, the Court has to consider circumstances of the case, the nature of the offence and the character of the offender. While considering the nature of the offence, the Court must take a realistic view of the gravity of the offence, the impact which the offence had on the victim. The benefit available to the accused under Section 4 of the Probation of Offenders Act is subject to the limitation embodied in the provisions and the word "may" clearly indicates that the discretion vests with the Court whether to release the offender in exercise of the powers under Section 3 or 4 of the Probation of Offenders Act, having regard to the nature of the offence and the character of the offender and overall circumstances of the case. The powers under Section 4 of the Probation of Offenders Act vest with the Court when any person is found guilty of the offence committed, not punishable with death or imprisonment for life. This power can be exercised by the Courts while finding the person guilty and if the Court thinks that having regard to the circumstances of the case, including the nature of the offence and the character of the offender, benefit should be extended to the accused, the power can be exercised by the Court even at the appellate or revisional stage and also by this Court while hearing appeal under Article 136 of the Constitution of India."

19. It is also noteworthy that the Honourable Supreme Court, in **AIR 2017 SC 660 (Mohd. Hashim v. State of U.P)** was pleased to observe as under:-



"20-.....In *Rattan Lal v. State of Punjab AIR 1965 SC 444*.
SubbaRao, J., speaking for the majority, opined thus:-

"The Act is a milestone in the progress of the modern liberal trend of reform in the field of penology. It is the result of the recognition of the doctrine that the object of criminal law is more to reform the individual offender than to punish him. Broadly stated, the Act distinguishes offenders below 21 years of age and those above that age, and offenders who are guilty of having committed an offence punishable with death or imprisonment for life and those who are guilty of a lesser offence. While in the case of offenders who are above the age of 21 years absolute discretion is given to the court to release them after admonition or on probation of good conduct, subject to the conditions laid down in the appropriate provisions of the Act, in the case of offenders below the age of 21 years an injunction is issued to the court not to sentence them to imprisonment unless it is satisfied that having regard to the circumstances of the case; including the nature of the offence and the character of the offenders, it is not desirable to deal with them under Sections 3 and 4 of the Act."

20. Section 4 of the Probation of Offenders Act, 1958 is applicable to a case, where a person is found guilty of committing an offence, where punishment is neither life sentence nor death. The Court may release such an accused on probation of good conduct on his furnishing a bond, as mentioned in the said Section. The Court, in applying the provisions of this Section, is also required to consider the circumstances of the case, character of the offender and nature of the offence, before exercising its discretion.

21. A perusal of the aforesaid provisions of the Probation of Offenders Act, 1958, thus, clearly indicate that Section 4 of the Act, 1958, does not create any distinction between the category of offenders and the provisions of the said Section can be made applicable in any case, where the offender is found



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guilty for committing an offence, which is not punishable with death or imprisonment for life. Incidentally, certain exceptions had been indicated by the Honourable Supreme Court, in **1979 (3) SCC 760 (Smt. Devki Versus State of Harayana)**, where the Honourable Supreme Court had held that the benefits of Section 4 of the Act of 1958 could not be extended to a culprit, who was found guilty of abducting a teenaged girl and forcing her to sexual submission, with criminal motive. Similarly, in the case reported in **1980 (4) SCC 669 (State of Maharashtra Versus Natwar Lal Damodar Das Soni)**, the Honourable Supreme Court had declined to extend the benefit of the Act of 1958 to an accused, found guilty of gold smuggling.

22.The Honourable Supreme Court in **AIR 2000 SC 3622 (Jagat Pal Singh and others vs. State of Haryana)**, had given the benefit of probation, while upholding the conviction of the accused persons under Sections 323, 452, 506 IPC and has released the accused persons on executing a bond before the Magistrate, for maintaining good behaviour and peace for a period of six months.

23.Similarly, the Allahabad High Court in **2022(120)ACrC 392 (Virendra Kumar Vs State of UP)**, had given the benefit of probation, while upholding the conviction of the Revision Petitioner, under Section 7 read with Section 16 of the Food Adulteration Act and had released the accused persons on executing a bond before the Magistrate for maintaining good behaviour and peace for a period of six months.

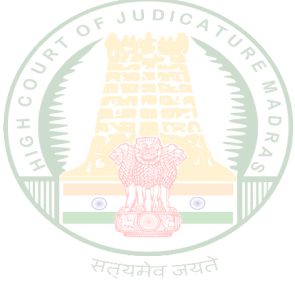


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24. In this case, it is noteworthy that the incident took place way back in the year 2014. The Revision Petitioner/accused was convicted and sentenced, as stated above, for the offence under Section 326 of IPC, for having caused grievous injuries on the injured coworker, who had taken treatment in the Hospital, as an inpatient. The Revision Petitioner/accused herein had suffered in this matter for the past 12 years. It is also reported that the Revision Petitioner/accused has not suffered any conviction previously and that there is no any criminal antecedent between the parties during these years.

25. In the light of the above discussions, reasons and in the light of the decisions, referred to above and considering the facts and circumstances of the present case, this Court is of the view that the benefits of the provisions of the Probation of Offenders Act, 1958 should be provided to the Revision Petitioner/accused herein. Accordingly, this Criminal Revision Case is **partly allowed**, with the following modifications and directions:-

- i. **In so far as conviction imposed on the Revision Petitioner/accused is concerned**, the impugned judgement of conviction and sentence and order, dated 28.02.2022, made in CA.No.304 of 2019, by the XXI Additional Sessions Judge, City Civil Court, Chennai, confirming the judgement of conviction and sentence and order, dated 01.08.2019, made in CC.No.2708 of 2015, by the V Metropolitan Magistrate, Egmore, Chennai, **shall be maintained.**
- ii. **In so far as the sentence imposed on the Revision Petitioner/accused is concerned**, the impugned judgement of conviction



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and sentence **is modified** to the effect that instead of sending the Revision Petitioner/ accused herein to jail, he is given the benefits of Section 4 of the Probation of Offenders Act, 1958 and he is directed to file two sureties, each to the tune of Rs 20,000/- along with his personal bond before the District Probation Officer concerned, and also an undertaking to the effect that he shall maintain peace and good behaviour and further he shall not commit any offence, for a period of six months from today. The above sureties and personal bond are to be filed by the Revision Petitioner, namely, V.Jayabalan,, within a period of three months from the date of this order.

iii. In case of breach of any of the above conditions, the Revision Petitioner/accused, shall be taken into custody and shall have to undergo the sentence of imprisonment awarded to the Revision Petitioner/accused, by the impugned judgements of conviction and sentence of the courts below.

26.The Registry of this Court is directed to send a copy of this order to the concerned Court, for necessary compliance and information, forthwith. The file is consigned to record. There is no order as to costs.

27.The Trial Court Records, if any, shall also be sent back to the concerned Court.

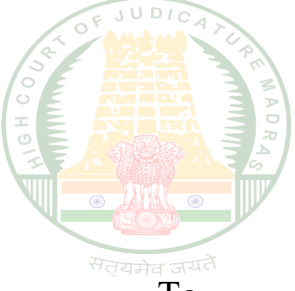
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Speaking/Non-speaking order

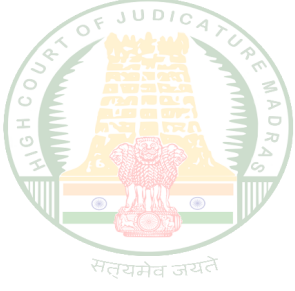
Neutral Citation: Yes/No

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1. The XXI Additional Sessions Judge, City Civil Court, Chennai
2. The V Metropolitan Magistrate, Egmore, Chennai
3. The Inspector Of Police, K.7.I.C.F. Police Station, I.C.F. Chennai – 600038.
4. The Public Prosecutor, Madras High Court, Madras



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SHAMIM AHMED, J.

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