VERDICTUM.IN

RAJASTHAN HIGH COURT
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HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Appeal No. 14/1991

Rajasthan High Court
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1. Munna alias Jaid S/o Fakir Mohd., resident of Kachchi Basti, Delhi Byepass Road, Housing Board, Jaipur
2. Faiz Mohd. S/o Fakira Mohd., resident of Idgah Kachchi Basti Jaipur

----Appellants

Versus

State of Rajasthan through Public Prosecutor

----Respondents

For Appellant(s) : Mr. D.K. Dixit
For Respondent(s) : Mr. Laxman Meena, PP

HON'BLE MR. JUSTICE SUDESH BANSAL

Judgment

Reserved on: **29/05/2024**
Pronounced on: **05/06/2024**

BY THE COURT:

1. Both accused-appellants have preferred this joint appeal under Section 374 CrPC, assailing the judgment dated 17.01.1991 passed in Sessions Case No.3/1988 (State Vs. Munna @ Jaid) by the Court of Special Judge, SC/ST (Prevention of Atrocities Cases), Jaipur whereby and whereunder appellants have been convicted for offence under Section 307 IPC and sentenced to undergo seven years rigorous imprisonment with fine of Rs.100/- each and in default to further undergo one month rigorous imprisonment.

2. The genesis of the present criminal appeal is a parcha bayan of Murarilal- complainant/ injured, who was a police Head Constable, made on 28.03.1988 whereupon FIR No.100/1988 was registered at Police Station Kotwali, Jaipur against appellants for

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VERDICTUM.IN

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offences under Sections 307 and 34 IPC. In parcha bayan (Ex.P4) injured Murarilal stated that Faiz Mohd. and Munna had rivalry from him and when he went at about 2:30 PM to get iron his clothes from washerman Kalu at Maniharo Ka Rasta, he was attacked by both accused with knife. He stated that he was stabbed in stomach, waist, chest and left shoulder as also on back by the knife and when he fell down, both accused ran away from there shouting that he has died. He further stated that, after having hurt, he hired an auto-rickshaw and came Kotwali where he met with Constable Usman Khan with whom he went to hospital. In the parcha bayan, he also named one Mohd. Shafi (third brother of both assailants). Parcha bayan of Murarilal was recorded in the hospital and after registration of FIR, investigation was commenced thereupon. Both accused-appellants were arrested. After concluding the investigation, charge-sheet against both accused-appellants for offences under Section 307/34 IPC was submitted before the concerned Magistrate, who committed the case for trial to the Sessions Court. Before the Sessions Court, after framing charges, accused-appellants pleaded not guilty and claimed trial. In prosecution evidence as many as 11 witnesses were examined and documents were exhibited. Then statements of both accused under Section 313 CrPC were recorded. Accused persons did not produce any defence evidence. Thereafter, Sessions Court vide judgment impugned has convicted and sentenced both accused as mentioned hereinabove, hence, this appeal by both accused-appellants.

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VERDICTUM.IN

RAJASTHAN HIGH COURT सत्यमेव जयते

3. The contention of learned counsel appearing on behalf of appellants is that there are contradictions and discrepancies in statements of complainant/ injured Murarilal and he has falsely implicated both accused in the present criminal case because of having previous rivalry with them, hence, the evidence of injured Murarilal is not trustworthy enough to convict appellants. The contention of learned counsel is that as per prosecution, there were three eye witnesses of the incident namely Hukumat Rai, Babulal and Hanuman, who were made witnesses of prosecution. Only one eye witness Hukumat Rai appeared as PW.3, who has been declared hostile and has not supported the case of prosecution. Other two eye witnesses have not appeared to prove the case of prosecution. Recovery memo of weapon (Knife) and blood stained clothes has not been proved and witnesses of recovery memo also turned hostile. The recovery of knife was made from an open place and knife was not confronted from the injured to verify that same was used by appellants to stab him. Learned counsel contends that out of five knife blows only one blow has been found in stomach, which too has not been proved to be dangerous to life and sufficient to cause death in ordinary course of nature. In this respect, statements of Dr. V.N. Gupta (PW.5) Medical Jurist and Dr. Raghvendra Rana (PW.1), who perform operation of injured, do not support the prosecution case. Report of FSL has not been exhibited, therefore, linking evidence to match the blood group of injured with the blood found on stained clothes and weapon, is absent. Hence, the contention of counsel for appellants is that the prosecution has miserably failed

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VERDICTUM.IN

RAJASTHAN HIGH COURT
सत्यमेव जयते

to prove the offence against appellants beyond reasonable doubt and solitary statements of injured Murarilal, being suffered from infirmities and malice, are not reliable and trustworthy to convict appellants for the alleged offence, therefore, according to counsel for appellants, the conviction of accused-appellants is liable to be set aside, extending benefit of doubt to appellants.

Rajasthan High Court
सत्यमेव जयते
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4. In alternative to the above noted arguments, counsel for appellants would contend that in case, this Court affirms the conviction of appellants, his prayer would be to release appellants on probation under Section 4 of the Probation of Offenders Act, 1958. He submits that both appellants have no criminal antecedents except the present criminal case and are poor persons, who earn their livelihood by selling water balls on cart and are living in the society peacefully as there is no complaint against them about their conduct either prior or post to the incident in question. He submits that incident is of 29.03.1988 i.e. about 36 years have passed and after arrest of appellants on 29.03.1988, accused-appellant No.1 Munna @ Jaid was granted bail on 17.05.1988 and accused-appellant No.2 Faiz Mohd. was released on bail on 09.06.1988, since thereafter there is no adverse report about their good behavior in society and both are leading peaceful life in the society. Now appellant No.1 has attained the age of about 59 years and appellant No.2 has attained the age of about 62 years, therefore, considering all such attending and mitigating circumstances, it is a fit case where at least benefit of probation may be granted to appellants, if their conviction is not set aside. He submits that a lenient view may be

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VERDICTUM.IN

taken in the present matter considering the nature of injuries inflicted upon injured Murarilal, which have not resulted into major physical disability or reduction of his life span, therefore, in this view also, at the most, appellants may be saddled with additional fine to pay as compensation to the victim for suffering injuries, but sending appellants into jail would be against interest of justice, so it is expedient to release appellants on probation to maintain good behavior.

5. Counsel for appellants has placed reliance on the judgment of the Hon'ble Supreme Court in case of **Indra Devi Vs. State of Himachal Pradesh [2016 (12) SCC 770]** and the judgment dated **19.02.2024** passed by the Coordinate Bench of this Court in **S.B. Criminal Appeal No.483/1993: Naval Kishore Vs. State of Rajasthan**, granting benefit of probation to accused-appellants who were convicted and sentenced for a period of five years rigorous imprisonment for offences under Sections 307/34 IPC.

6. On the other hand, learned Public Prosecutor has repelled contentions made by counsel for appellants and argued that contradictions and discrepancies pointed out in the evidence of injured Murarilal (PW.4) are trivial in nature, which do not render his evidence as non-reliable. Learned Public Prosecutor submits that from the evidence of injured, his presence on the spot at Maniharo Ka Rasta on 29.03.1988 at about 2:30 PM it means at the place and time of occurrence of alleged incidence, is not doubtful and merely for the reason that prior to his parcha bayan

(Downloaded on 08/06/2024 at 03:03:58 PM)

VERDICTUM.IN

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(Ex-P4), he has not named both accused-appellants either to the driver of auto-rickshaw or to the Constable Usman Khan with whom he came to hospital, evidence of injured may not be discarded. He submits that the testimony of an injured witness has been accorded a special status in law and required to be given due weightage as much as cannot be brushed aside unless there are sound reasons to reject his evidence on the basis of major contradictions and discrepancies creating a doubt about his presence on the spot at the time and place of occurrence. Thus, according to Public Prosecutor, the impugned judgment of conviction does not call for any interference to convict appellants on the basis of evidence of injured. In respect of awarding sentence, Public Prosecutor submits that appellants be suitably punished taking into consideration the nature of serious offences, however, he could not contradict facts, pointed by the counsel for appellants to grant benefit of probation. Learned Public Prosecutor has not shown any adverse report against appellants about their good behavior peaceful attitude and leading a normal social life like civilized citizens prior to or post to the incident in question. The prayer of learned Public Prosecutor is that the appeal be dismissed.

7. Heard learned counsels for both parties at length and perused the record.

8. At the outset, it is note worthy that the injured/ complainant in the present criminal case is Murarilal Gupta on whose parcha bayan, the investigation in the present criminal case was initiated

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VERDICTUM.IN

RAJASTHAN HIGH COURT सत्यमेव जयते

after registration of FIR on 29.03.1988. Murarilal himself stated that he was stabbed by both accused because of having rivalry with him. In his statements, Murarilal stated that rivalry was due to a previous criminal case against him for abduction of sister of accused persons. Both accused persons namely Munna @ Jaid and Faiz Mohd. are brothers and in the parcha bayan, Murarilal also named third brother Mohd. Shafi to be involved in assaulting him, however, in his cross-examination, Murarilal did not support allegations against Mohd. Shafi. In the charge-sheet, prosecution has named four witnesses including injured Murarilal as eye witness of incident. Other three witnesses are Hukumat Rai, Babulal and Hanuman. Hukumat Rai appeared as PW.3 and has not supported the prosecution case, therefore, he has been declared hostile. Other two eye witnesses Babulal and Hanuman have not appeared before the trial Court to support the case of prosecution. Thus, the case of prosecution is basically based on statements of injured Murarilal, who is victim himself as well as eye witnesses of the incident.

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Statements of injured Murarilal were also recorded by the Judicial Magistrate at about 5:10 PM on the date of occurrence i.e. 29.03.2988 itself during his hospitalization and such statements have been exhibited as (Ex-D1). There is no apparent discrepancy in statements of Murarilal, recorded in the parcha bayan (Ex-P4) and recorded by the Judicial Magistrate (Ex-D1). Learned counsel for appellants has highlighted few contradictions and discrepancies in the evidence-in-chief and the cross-examination of injured Murarilal, recorded during course of trial. It has been pointed out

(Downloaded on 08/06/2024 at 03:03:58 PM)

VERDICTUM.IN

RAJASTHAN HIGH COURT सत्यमेव जयते

that there is apparent contradiction in respect of presence of washerman Kalu on his shop because in the chief statement of injured Murarilal (PW.4), he stated to handover clothes for ironing to kalu and pay him charges as well, after the incdident of attack on him, whereas in the cross-examination, injured has denied presence of kalu on his shop. It has been pointed out that the site map of the incident was not prepared in presence of Kalu washerman. It has also been pointed out that there is apparent contradiction in statements of injured, in respect of place of occurrence. His statements, have been claimed to be unreliable, due to implicating Mohd. Shafi as well along with two accused persons initially in the parcha bayan whereas neither charge-sheet was filed against Mohd. Shafi nor in Court statement Mohd. Shafi was named by Murarilal. It has further been urged that evidence of injured Murari Lal becomes suspicious and unnatural, since, firstly, he did not lodge the report at first instance, despite of reaching to police station Kotwali through auto-rickshaw as much as did not name both assailants despite knowing them to the Constable Usman Khan with whom he went to hospital from police station Kotwali. It has been urged that if the evidence of injured Murarilal is taken as a whole, same may not be treated as trustworthy as much as sufficient to convict appellants for the alleged offence, more so when it is an admitted case of injured there being enmity between him and assailants. Hence, the possibility of false implication of appellants in the present criminal case may not be ruled out in the backdrop of admitted fact of having rivalry between complainant- Murarilal and assailants.

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VERDICTUM.IN

9. In the judgment of **Indra Devi** (supra) referred by the counsel for appellants, the Hon'ble Apex Court has observed in para No.7 as under:-

> "The proposition of law that an injured witness is generally reliable is no doubt correct but even an injured witness must be subjected to careful scrutiny if circumstances and materials available on record suggest that he may have falsely implicated some innocent persons also as an after thought on account of enmity and vendetta. The trial court erred in not keeping this in mind."

In case of **Indra Devi** (supra), the Apex Court observed that the injured has improvised his evidence, during court trial and apart from two male assailants, three ladies were also tried to be involved in making the assault. In that context, there was apparent major contradictions in allegations made in the FIR and allegations made in statements of injured during course of trial. The allegations in statements of injured during court trial were observed to be exaggerated and wholly contrary to allegations made in the FIR. The subsequent allegations made by the victim against accused-appellants were not found corroborated by the medical evidence also. Implication of ladies accused was observed to be unnecessarily just due to having previous enmity and land dispute. In that backdrop of factual matrix, the conviction of accused-appellants for offence under Section 147/ 148/ 307 read with Section 149 IPC and Section 25 of the Arms Act based on the sole evidence of injured, was set aside by the Apex Court. But in the present case, nature of contradictions and discrepancies pointed out in the evidence of injured Murarilal are not so serious rather can be termed to be minor and trivial contradictions which

(Downloaded on 08/06/2024 at 03:03:58 PM)

VERDICTUM.IN

are sometimes natural also, therefore, it is not just to discard the testimony of injured-Murarilal merely on account of such minor infirmities in his evidence. Therefore, the evidence of injured-Murarilal cannot be declared unreliable and untrustworthy. Rather considering the uncontroverted situation that injured Murarilal suffered grievous hurt and received as many as five knife blows on various parts of his body, in the occurrence allegedly occurred on 29.03.1988 in afternoon at about 2:30 PM at Maniharo Ka Rasta, Jaipur his presence on the spot cannot be doubted in any manner and therefore, due credence has to be given to the evidence of injured being eye witness as also victim. Thus, the Sessions Court has not committed any illegality in giving due weightage to evidence of injured Murarilal against accused-appellants to prove their guilt for commission of offence.

10. In respect of evidential value and importance of the evidence of injured, who is usually eye witness also of the incident, reference of the judgment of the Apex Court in case of **State of U.P. Vs. Naresh [2011 (4) SCC 324]** would be suffice where in para No.26 and 27, the Apex Court observed as under:-

> "26. The High Court has disbelieved Balak Ram (PW5), who had suffered the gunshot injuries. His evidence could not have been brushed aside by the High Court without assigning cogent reasons. Mere contradictions on trivial matters could not render his deposition untrustworthy.
>
> 27. The evidence of an injured witness must be given due weightage being a stamped witness, thus, his presence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant inorder to falsely implicate someone else. The testimony of an

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VERDICTUM.IN

injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present during the occurrence. Thus, the testimony of an injured witness is accorded as special status in law. The witness would not like or want to let his actual assailant go unpunished merely to implicate a third person falsely for the commission of the offence. Thus, the evidence of the injured witness should be relied upon unless there are grounds for the rejection of his evidence on the basis of major contradictions and discrepancies therein. (Vide **Jarnail Singh Vs. State of Punjab [(2009) 9 SCC 719], Balraje Vs. State of Maharashtra [(2010) 6 SCC 673],** and **Abdul Sayeed Vs. State of M.P. [(2010) 10 SCC 259]**)"

(emphasis supplied)

11. It is true that the seizure memo (Ex-P13) prepared while seizing the knife and shirt of accused Faiz Mohd. on the information divulged by him from his house has not been proved by the witnesses of seizure memo and the report of FSL was also not exhibited by the prosecution, to prove the match of blood group of the blood stain on the shirt and knife, with the blood group of injured-Murarilal, yet on the strength of sole evidence of injured Murarilal, implication of both accused appellants in the present incident of assaulting the injured with knife may not be disbelieved. The contention of counsel for appellants that because of enmity, appellants have been falsely implicated by the injured is not acceptable. In this regard, it would be suffice to observe that the enmity is a double edged weapon. On facts of the present case, it is the case of prosecution since beginning that, it was only because of the said enmity due to which the victim was attacked

(Downloaded on 08/06/2024 at 03:03:58 PM)

VERDICTUM.IN

by accused-appellants, when he went at Maniharo Ka Rasta to get ironing of his clothes and accused also want to take benefit of such enmity, claiming his false implication. In the opinion of this Court, in overall facts and circumstances of the present case, the admitted fact of previous enmity between parties, lends support to the case of prosecution rather than demolish the same. Thus, this Court does not find any manifest illegality or jurisdictional error on the part of Sessions Judge in deciding point No.1 against accused-appellants and holding them guilty for assaulting the Murarilal with knife.

12. As far as nature of injuries inflicted upon the injured Murarilal are concerned, he has been inflicted five blows by knife on back, shoulder, waist and one blow was received by him on the side of stomach. As per statements of injured, it is apparent that after receiving such injuries, he was in fully conscious state of mind and he hired auto-rickshaw, came at police station Kotwali then went to hospital accompanied with Constable Usman Khan. After reaching the hospital as well, he was in full conscious state of mind and deposed his parcha bayan. If seriousness of his injuries is taken from the medical point of view, his medical check up was done by Dr. V.N. Gupta, who prepared his injury report (Ex-P6). The medical jurist Dr. V.N. Gupta (PW.5) has deposed that injury No.1 in stomach was dangerous to life and was sufficient to cause death in ordinary course of nature. He stated that injured Murari Lal had to be operated to save his life. As per note on injury report, opinion was kept reserve to be given after receiving X-ray plate but X-ray plate has not been produced on

(Downloaded on 08/06/2024 at 03:03:58 PM)

VERDICTUM.IN

record. The operation of injured-Murarilal was conducted by Dr. Raghvendra Rana (PW.11), who has deposed that injury in stomach of Murari Lal was grievous in nature and dangerous to his life. In the operation note (Ex-P14), prepared by Dr. Raghvendra Rana (PW.11), no such opinion has been given. The opinion given by Dr. V.N. Gupta (PW.5), also do not corroborate with the injury report, since he kept reserve his opinion after receiving the X-ray report. X-ray report has not placed on record. In this view, through medical evidence, it is not established beyond doubt that injuries were dangerous to life and sufficient to cause death in ordinary course of nature. However, merely on the basis of oral opinion of both Doctors PW.5 and PW.11, the Sessions Court recorded findings that the injury in the stomach of Murarilal was dangerous to his life and due to which he could have died. In the opinion of this Court, even if it is held that the injury in stomach of Murarilal has not been proved to be dangerous to life and sufficient to cause death, for want of supportive medical evidence to this effect as also looking his physical and mental condition post to the incident, yet as per statements of injured Murarilal it is proved that he received five blows with knife on various parts of his body (vital and non-vital). It is proved that previous enmity between parties is an admitted fact. The weapon used to assault the injury is a sharped weapon i.e. knife. Therefore, from overall facts and circumstances, the intention of appellants may be gathered to kill Murarilal and their conviction for offence under Sections 307 IPC may not be held to be erroneous.

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VERDICTUM.IN

13. For aforesaid reasons, this Court is not inclined to interfere with findings of conviction of accused-appellants for offence under Section 307 IPC and affirms the conviction of accused-appellants made by the Sessions Judge for offence under Section 307 IPC, in the impugned judgment.

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14. Coming to the sentence part, it is established proposition of law that the accused should be suitably punished for the offence for which he/ she has been held guilty. For offence under Section 307 IPC, no minimum sentence of jail is prescribed. The incident is undisputedly of about 36 years ago, which occurred on 29.03.1988. Appellant No.1 Munna @ Jaid has remained in custody from 31.03.1988 to 17.05.1988. Appellant No.2 Faiz Mohd. was arrested on 29.03.1988 and released on bail on 09.06.1988. After their conviction vide judgment impugned dated 17.01.1991, sentence of both appellants was suspended vide order dated 23.01.1991 and since then appellants are on bail. During course of this appeal, on account of non-presence of counsel for appellants, their bail bonds were forfeited vide order dated 26.07.2023, but later on, said order has been recalled on 22.08.2023 and their previous bail bonds have been revived. At present appellant No.1 has reached to the age of about 59 years and appellant No.2 has crossed the age of 62 years. There are no criminal antecedents, except the present case, to the discredit of appellants.

15. Counsel for accused-appellants has made a prayer to grant benefit of probation to accused-appellants, and admits that the

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VERDICTUM.IN

fine amount may be suitably enhanced to pay as compensation to the victim. Counsel for appellants has submitted that accused-appellants are living peacefully in the society prior or post to the incident and during course of trial or hearing of the present appeal, there is no adverse report about their good behaviour and conduct. As much as there are no criminal antecedents of appellants to their discredit.

16. Learned counsel has relied upon judgment dated 19.02.2024 passed by the Coordinate Bench of this Court in **Nawal Kishore** (supra), granting benefit of probation to accused-appellants who were convict for offences under Sections 307/ 34 IPC wherein the Coordinate Bench observed that there is no bar under law to extend the benefit of probation to convict the accused above 21 years of age.

17. It is noteworthy that powers to release accused on probation may be exercised by the Appellate Court as well, within limitation of Section 3 and 4 of the Probation of Offenders Act, 1958 but only when in the opinion of Court, it is expedient to do so. The Act of 1958 recognizes a distinction between offenders below 21 years of age and those above that age, and offenders who are guilty for offence punishable with death penalty or imprisonment for life and those who are guilty of a lesser offence. In case of **Rattan Lal Vs. State of Punjab [AIR 1965 SC 444]**, the Hon'ble Supreme Court while discussing the purpose and object of the Probation of Offenders Act, 1958, observed that for offenders, who are above the age of 21 years, absolute discretion is given to the Court to

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VERDICTUM.IN

release them after admonition or on probation of good conduct subject to the scope of the Act. Thus, the view of Coordinate Bench is in consonance and conformity to the precedent settled by the Hon'ble Supreme Court, while granting probation to the accused, who were above the age of 21 years on the date of commission of offence and it is permissible in law to release the accused on probation, even though, he has crossed the age of 21 years on the date of occurrence.

18. In case of **Matibar Singh Vs. State of Uttar Pradesh [2015 (16) SCC 168]**, the Apex Court took a lenient view while awarding punishment to an accused for offence under Section 307 IPC taking note of the fact that incident was about 40 years ago and keeping in mind that the nature of injury inflicted upon the victim has not resulted in any major physical disability or reduced life span of victim. The Apex Court while reducing the period of her sentence, enhanced the amount of fine, out of which maximum amount was paid to the victim or his family members as compensation.

19. In case of **Lakhbir Singh Vs. State of Punjab [2021 (2) SCC 763]**, the Apex Court awarded benefit of probation to the accused appellants who were convicted for offence under Section 307, 382 and 397 IPC taking note that none of these offences is punishable with death or imprisonment for life; appellants have suffered half of the sentence period and there was no adverse report against them about their conduct in jail, as much as the complainant has entered into compromise with appellants.

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VERDICTUM.IN

20. In case of **Mohd. Hashim Vs. State of UP [2017 (2) SCC 198]**, in para No.24 of the judgment, the Hon'ble Supreme Court observed that "We have made it clear that there is no minimum sentence and hence, provision of Probation of Offenders Act would apply." The Apex Court, after giving reference to the previous judgment delivered in case of **Dalbir Singh Vs. State of Haryana [2000 (5) SCC 82]** observed and held that Parliament has made it clear that only if the Court forms an opinion that it is expedient to release the convict on probation for the good conduct regard being had to the circumstances of the case and one of the circumstances which can be sidelined in forming the said opinion is "the nature of the offence".

It was observed that it is for the Court to decide that the case is fit to be expedient to grant benefit of probation of good conduct to the convict, within exercise of powers under section 4 of the Probation of Offenders Act, and while explaining the word "expedient", the Court held as under:-

> "9. The word "expedient" had been thoughtfully employed by Parliament in the section so as to mean it as "apt and suitable to the end in view". In Black's Law Dictionary the word expedient is defined as "suitable and appropriate for accomplishment of a specified object" besides the other meaning referred to earlier. In **State of Gujarat v. Jamnadas G. Pabri [1975 (1) SCC 2233]** a two-Judge Bench of this Court has considered the word "expedient". Learned Judges have observed in para 21 thus:
>
> > "…. Again, the word 'expedient' used in this provisions, has several shades of meaning. In one dictionary sense, "expedient" (adj.) means "apt and suitable to the end in view", "practical and efficient"; "politic"; "profitable"; "advisable", "fit, proper and

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VERDICTUM.IN

> suitable to the circumstances of the case". In another shade, it means a device "characterised by mere utility rather than principle, conducive to special advantage rather than to what is universally right" (*see Webster's New International Dictionary*)."

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10. It was then held that the court must construe the said word in keeping with the context and object of the provision in its widest amplitude. Here the word "expedient" is used in Section 4 of the PO Act in the context of casting a duty on the court to take into account "the circumstances of the case including the nature of the offence…". This means Section 4 can be resorted to when the court considers the circumstances of the case, particularly the nature of the offence, and the court forms its opinion that it is suitable and appropriate for accomplishing a specified object that the offender can be released on probation of good conduct."

21. Taking into consideration the ratio decidendi as expounded by the Apex Court in various judgments referred hereinabove and considering the peculiar facts and circumstances of the present case as also the uncontroverted factual matrix about status of appellants as noted in para No.14 and 15, and the fact that injured has not suffered any permanent disability or reduction of his life span because of hurts received to him rather has recuperated, this Court deems it just and proper that instead of sending appellants to suffer incarceration for remaining period of jail sentence, it would be expedient to grant the benefit of probation to accused-appellants but simultaneously an additional fine of Rs.50,000/- on appellants is imposed which shall be payable as compensation to the victim Murarilal and if he has passed away, then to the family/ legal heirs of victim-Murarilal.

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VERDICTUM.IN

22. Consequently, the instant appeal is partly allowed and the impugned judgment dated 17.01.1991 is modified in the manner that the conviction of both accused-appellants for offence under Section 307 IPC is hereby affirmed, but the sentence awarded by the Sessions Court is interfered with and both accused-appellants are hereby released on probation of maintaining good conduct under Section 4 of the Probation of Offenders Act, 1958 subject to furnishing a personal bond by each accused-appellant for a sum of Rs.50,000/- along with two sureties for a sum of Rs.25,000/- each to the satisfaction of the trial Court along with a written undertaking to appear and receive sentence when called upon during the period of three years and in the meantime to maintain peace and good behavior and not to repeat the same offence during such period. Further appellants shall deposit a lumpsum total additional fine amount of Rs.50,000/-, apart from making payment of fine amount of Rs.100/- by each appellant as imposed by the Sessions Judge in the impugned judgment, and the default stipulation in case of non-payment of fine i.e. one month rigorous imprisonment to both shall remain same as indicated in the impugned judgment.

23. Appellants are allowed two months time to furnish the bail bonds, sureties and undertaking as also to deposit the fine amount (Rs.50,000 + Rs.100 + Rs.100) as ordered hereinabove, failing which, the sentence awarded by the Sessions Court in the impugned judgment shall be restored.

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VERDICTUM.IN

24. It is made clear that after deposition of the additional fine amount of Rs.50,000/-, same will be paid to the victim Murarilal or in case he has passed away to his family members/ legal heirs.

25. Both accused-appellants are on bail, hence, on furnishing the fresh bail bonds, sureties and undertaking to release on probation, their previous bail bonds shall stand discharged automatically.

26. Record of the trial Court be sent back forthwith along with copy of this order for information and necessary compliance.

(SUDESH BANSAL), J

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