

SC No. 239/2021
State vs. Rahul
FIR No. 777/2015
PS: Mayur Vihar

ORDER ON SENTENCE

- 1) Vide judgment dated 28.04.2026, accused was convicted for offence under Section 307 IPC for attempting to kill the complainant Sh. Kamal Kishore by hitting his car with the motorcycle being driven by the complainant from behind and then dragging the said motorcycle for a long distance.
- 2) I have heard counsel for convict, convict in person and Addl. PP for State on the point of sentence and gone through the record. Counsel for the convict cited various judgments including **Niraj Zhalani vs. Promod Kumar Zhalani Crl. Appeal No. 1226/2014 decided by Hon'ble Supreme Court on 09.01.2025, Lakhvir Singh vs. State of Punjab AIR 2021 SC 555, Sumit Gupta vs. State Crl. Appeal No. 54/2011 decided on 15.10.2014 and Zahid Khan vs. State Crl. Appeal No. 734/2024 decided on 10.10.2025 by Hon'ble Delhi High Court** and requested for release of the accused on probation.
- 3) Sh. Kamal Kishore, complainant had appeared in this court on 13.05.2026 who refused to pardon the convict who was tendering apology from him. Even the complainant was not ready to accept any compensation from the convict for his damaged motorcycle which was second hand and old

one. As per record, complainant survived without any injury in the incident but his motorcycle was totally damaged as shown in the photographs filed on record and has virtually become useless.

- 4) Convict remained in custody from 01.12.2015 to 10.12.2015 and from 24.02.2023 to 28.02.2023 during investigation and trial. There is nothing on record to show that convict is involved in any other criminal case as per SHO report already received. He is aged about 40 years at present. Probation report also received which goes in his favour. He is maintaining his elder sister and her two children and is earning Rs. 12,000/- per month. Convict pleaded for lenient view and requested for release on undergone period in case, he is not released on probation.
- 5) Section 307 IPC has two parts and first part prescribe punishment of imprisonment for a term which may extend to ten years and convict shall also be liable for fine. However, in case by the act of the convict, any hurt is caused to any person, then the convict shall be liable for imprisonment for life or to such punishment which is mentioned above.
- 6) During his deposition, complainant Kamal Kishore had alleged that he had suffered minor injuries but no medical examination was got conducted. Even in his initial complaint given to the police, he has not mentioned about suffering of any injury even of minor one in the incident. Thus, in my view, the part one of the offence under Section 307 IPC is attracted and not part two.

- 7) Hon'ble Delhi High Court in cases **Rahul @ Shiv vs. State Crl. A. no. 421/2018 decided on 29.08.2025** and **Ajay Kumar vs. State Crl. A. no. 549/2007 decided on 04.07.2025** held that court has power even to release convict on probation where even there is minimum punishment prescribed. In these two cases, Hon'ble High Court released the accused on probation even they were convicted under Section 397 IPC wherein minimum punishment is seven years of imprisonment.
- 8) Keeping in view the above facts and circumstances, no previous conviction of convict in any case till date, his period of custody of about 15 days, his responsibility to maintain his sister and her two minor children as well as favourable probation report, almost regular appearance in court after release from custody, no injuries suffered by the complainant etc. as well as by giving a chance to convict to reform himself, he is ordered to be released on probation for a period of two years on furnishing bond of Rs. 20,000/- with one surety of like amount and during this period he will keep peace and good behaviour. He shall be kept under supervision of Probation Officer for this period and will mark his attendance in police station after every 15 days. He will not change his address without prior permission of the court. He shall also pay compensation of Rs. 25,000/- to the complainant u/s 5 (a) of Probation of Offenders Act. Though the complainant has refused to accept any compensation but if he wishes, he can collect this amount towards damaged caused to his motorcyle,

otherwise this amount will go to State. Probation Officer shall quarterly report of convict to this court regularly. Convict, if wishes can take time to furnish probation bond as mentioned above and deposit compensation amount.

- 9) In case convict fails to furnish the bond and to deposit the compensation or in case it is found in future that he had violated any of the above term or has been found involved in any other criminal case, then the benefit of probation given above shall be treated as automatically revoked and he will undergo the rigorous imprisonment of 03 years under Section 307 IPC and shall pay fine of Rs. 10,000/-, in default simple imprisonment of 03 months. The convict will get the benefit under Section 428 Cr.P.C. of the period of custody during investigation and trial as mentioned above. Copy of the judgment and this order on sentence be given to the convict free of cost and file be consigned to record room.

(Ashwani Kumar Sarpal)
Principal District & Sessions Judge
East District, KKD Delhi/25.05.2026