

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal (Sb) No. 147/2019

Surendra Kumar @ Kalu S/o Shri Manphool Ram, Aged About 28 Years, By Caste Jat, Resident Of Umewala, Police Station Goluwala, Tehsil Pilibanga, District Sriganganagar.

-----Appellant

Versus

State, Through Pp

-----Respondent

For Appellant(s)	:	Ms. Sonika Poonia for Mr. DS Thind
For Respondent(s)	:	Mr. Deepak Choudhary, AAG assisted by Mr. KS Kumpawat Mr. Shardul Bishnoi

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Judgment

16/07/2025

Instant criminal appeal has been filed by the accused-appellants challenging the judgment and order dated 18.01.2019, passed by learned Additional Sessions Judge No.2, Sri Ganganagar, in Session Case No.1/2016 whereby the learned trial court while convicting the appellant for offence under Sections 323, 447, extended the benefit of probation under Section 4 of the Probation of Offenders Act. The trial Court also directed the appellant to deposit Rs.25,000/- as compensation under Section 5 of the Act, which shall be paid to the injured Shyoprakash.

Briefly stated, the prosecution case as set up is that on 23.08.2015, complainant filed a written report at Police Station Lalgah Jatan to the effect that the accused-appellant assaulted

his son with deadly weapon. On the said complaint, Police registered a case against the accused-appellant and started investigation.

On completion of investigation, the police filed the challan. Thereafter, the trial court framed charges for offences under Sections 307, 325, 447, 341 IPC against the accused-appellant, who pleaded not guilty and claimed trial.

During the course of trial, the prosecution examined as many as 18 witnesses in support of its case and exhibited certain documents. Thereafter, statement of the accused appellant was recorded under section 313 Cr.P.C.

Upon conclusion of the trial, the learned trial court vide impugned judgment dated 18.01.2019 acquitted the accused-appellant from offence under Sections 307, 325, 341 IPC and while convicting him for offences under Sections 323, 447 IPC extended the benefit of probation under Section 4 of the Probation of Offenders Act and also directed him to deposit Rs.25,000/- as compensation under Section 5 of the Act.

Learned counsel for the appellant has argued that he does not challenge the finding of conviction, but the fine as imposed by the trial court by way of impugned judgment while extending the benefit of probation is on the higher side as he is an indigent person and not in the position to deposit such a higher amount. Counsel further submits that vide order dated 30.01.2019, this Court directed the appellant to deposit Rs.10,000/- before the trial court and payment of remaining amount of Rs.15,000/- shall

remain stayed. Counsel accedes that in compliance of the said order, the appellant has already deposited Rs.10,000/- before the trial court. Therefore, it is prayed that the fine imposed by the trial court may be waived or in the alternative, the same be reduced from Rs.25,000/- to Rs.10,000/-.

Learned Public Prosecutor and learned counsel for the complainant have opposed the prayer made by learned counsel for the appellants and submitted that the fine imposed by the trial court is just and proper and therefore, the same does not warrant any interference from this Court.

I have considered the submissions of the learned counsel for the parties and perused the impugned judgment of the trial court and also gone through the entire record.

Since the criminal appeal against conviction is not pressed and after perusing the material, nothing is noticed which requires interference in the finding of guilt reached by learned trial court, this court does not wish to interfere in the judgment of conviction. Accordingly, the judgment of conviction is maintained.

As far as the question of imposition of fine under Section 5 of Probation of the Offenders Act is concerned, the appellant is an indigent and this was his first offence and he has also suffered the mental agony and trauma of protracted trial. Thus, looking to the over-all circumstances of the case, it will be just and proper, if the fine imposed by the trial court while extending the benefit of probation to the appellant is reduced from Rs.25,000/- to Rs.10,000/-. Ordered accordingly. The appellant has already

deposited the reduced fine amount of Rs.10,000/- before the trial court, which shall be immediately disbursed to the injured Shyoprakash on an application being filed.

Accordingly, the criminal appeal is disposed of in the aforesaid terms.

The records of the trial court be sent back forthwith.

(MANOJ KUMAR GARG),J