

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

S.B. Criminal Appeal (Sb) No. 509/2019

Raja Ram S/o Ram Pratap, Aged About 53 Years, Resident Of
Umewala, P.s. Goluwala Tehsil Pilibanga District Hanumangarh.

----Appellant

Versus

1. State Of Rajasthan, Through Pp
2. Surendra Kumar @ Kalu S/o Manphool Ram, By Caste Jat,
Resident Of Umewala Ps Goluwala Tehsil Pilibanga District
Hanumangarh.

----Respondents

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

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Judgment

16/07/2025

Instant criminal appeal has been filed by the appellant/complainant against the judgment and order dated 18.01.2019, passed by learned Additional Sessions Judge No.2, Sri Ganganagar in Sessions Case No.01/2016 whereby the learned trial court acquitted the respondent No.2 from offence under Sections 307, 325, 341 IPC and while convicting him for offence under Sections 323, 447, extended the benefit of probation under Section 4 of the Probation of Offenders Act.

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

No.2 assaulted his son with deadly weapon. On the said complaint, Police registered a case against the accused-respondent and started investigation.

On completion of investigation, the police filed challan. Thereafter, the trial court framed charges for offences under Sections 307, 325, 447, 341 IPC against the accused respondent, 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 respondent 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-respondent 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. Hence, this appeal on behalf of the complainant/appellant.

Learned counsel for the appellant argued that learned trial court has committed grave error in acquitting the accused-respondent from offence under Sections 307, 325, 341 IPC and in giving benefit of probation to him for offences under Sections 323, 447 IPC despite the fact that the prosecution has proved its case beyond all reasonable doubts. Counsel submits that there is ample evidence available on record against the accused-respondent for commission of offence. Yet, the trial court did not consider these aspects of the matter and acquitted the accused respondent from offence under Sections 307, 325, 341 IPC. Further, despite

conviction, the learned trial court granted benefit of probation under Section 4 of the Act to the accused-respondent, which is per se illegal. Thus, it is prayed that the impugned judgment may be quashed to the extent of acquitting the accused-respondent from offence under Sections 307, 325, 341 IPC and to the extent of giving benefit of probation to the accused-respondent for the offences under Sections 323, 447 IPC.

Learned counsel for the accused-respondent has vehemently opposed the submissions of the appellant and prayed for dismissal of the appeal.

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.

On perusal of the impugned judgment, it appears that the prosecution has failed to produce any evidence against the accused-respondent in respect of the commission of offence under Sections 307, 325, 341 IPC. While passing the impugned order, learned trial court has considered each and every aspect of the matter and thus, the trial court has rightly acquitted the accused-respondent from offence under Sections 307, 325, 341 IPC.

So far as the benefit of probation extended to the accused-respondent for the offences under Section 323, 447 IPC is concerned, the learned trial court has held that this was the first offence of the accused-respondent and during bail, he did not disobey any conditions of the bail and the accused-respondent is the sole bread earner of his family and his old parents are dependent upon him. Taking into consideration the overall facts and circumstances of the case, this Court is of the opinion that the

learned trial court has rightly extended the benefit of Probation under Section 4 of the Act to the accused-respondent for the offences under Sections 323, 447 IPC. Thus, there is no illegality and perversity in the impugned judgment and the same is just and proper.

In the light of aforesaid discussion, the appellant has failed to show any error of law or on facts on the basis of which interference can be made by this Court in the impugned judgment under challenge.

Accordingly, the criminal appeal is hereby dismissed.

Record of the trial court be sent back forthwith.

(MANOJ KUMAR GARG),J