

**(2005) 07 DEL CK 0114**

**Delhi High Court**

**Case No:** CRLR 478 of 2000 and Criminal M.A. 1851 of 2000

Deepak Kumar

APPELLANT

Vs

State

RESPONDENT

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**Date of Decision:** July 18, 2005

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 120B, 409, 467, 471
- Probation of Offenders Act, 1958 - Section 4

**Citation:** (2005) 122 DLT 362

**Hon'ble Judges:** R.S. Sodhi, J

**Bench:** Single Bench

**Advocate:** M.S. Butalia, for the Appellant; V.K. Malik, for the Respondent

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### **Judgement**

R.S. Sodhi, J.

This revision petition is directed against the judgment dated 17.10.2000 passed by the learned Additional Sessions Judge, New Delhi dismissing the appeal arising out of the order of the Metropolitan Magistrate upholding the conviction of the petitioner and sentencing him to undergo R.I. For two years with a fine of Rs. 2,500/- each u/s 120-B, 409, 467, 471 IPC.

2. Learned counsel for the petitioner submits that he does not wish to challenge the conviction on merits but submits that this is a fit case where accused can be admitted to the benefit of the Probation of Offenders Act. He submits that the incident took place as far back as on 1985.

3. The petitioner has been facing the ordeal of trial for over 20 years and that he has now settled down as useful citizen and that there has been no untoward incident nor any complaint against him. He further submits that the petitioner has been on bail since 17th October, 2000 after suffering incarceration. Learned counsel for the State submits that in the facts and circumstances of this case he would not be averse to the benefit of the Probation of Offenders Act being extended to the

petitioner.

4. Having heard learned counsel for the parties and having given my careful consideration to the material available on record, I am of the view that in the present case, the petitioner has suffered the agony of trial lasting for about 20 years. Besides that, he has already undergone some period in custody. There is no allegation that the petitioner being previous convict. Keeping these circumstances in mind and the fact that the offence of which the petitioner has been convicted is not punishable with life imprisonment, he deserves the benefit of probation u/s 4 of the Probation of Offenders Act, 1958.

5. In these circumstances, while maintaining the conviction of the petitioner the sentence of imprisonment and fine as awarded to him is set aside. Having regard to the circumstances of the case including the nature of the offence and the character of the offender as also taking into consideration the report of the Probation Officer, called for by this court, it is considered expedient to release him on probation of good conduct. It is, Therefore, directed that the petitioner be released for a period of two years on his entering into a personal bond in the sum of Rs. 5,000/- (rupees five thousand) with one surety in the like amount to appear and receive sentence as and when called upon during such period and, in the meantime, the petitioner shall keep peace and be of good behavior. The requisite bonds to be furnished by the petitioner and the surety to the satisfaction of the trial court/CMM/ACMM. The fine, if already, paid, is directed to be treated as litigation expenses of the State.

6. With this modification, the order under challenge is upheld. The petition stands disposed of. CrI.M.A.1851/2000 also stands disposed of. The bail bond and surety stand discharged. Fresh bonds and surety, as directed to be furnished, shall be furnished within a period of one week failing which the sentence awarded by the trial court shall come into effect.