OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE,
NEW DELHI DISTRICT, PATIALA HOUSE COURTS, NEW DELHI

CIRCULAR

In compliance of the directions of the Ld. Principal District & Sessions Judge, New Delhi District, PHC, New Delhi, regarding Judgment dated 10-04-2026 passed by the Hon'ble Supreme Court of India in Criminal Appeal No. 1893/2026 (Arising out of Special Leave Petition (Criminal) No. 6843 of 2024) titled " Milind S/o Ashruba Dhanve and Ors Vs The State of Maharashtra has been uploaded on the official website i.e. newdelhi.dcourts.gov.in.

Therefore, it is requested to kindly peruse the abovesaid Judgment dated 10-04-2026 from the official website for kind information & necessary compliance.

(Deepali Sharma)
Officer-in Charge, General Branch
District Judge, Commericial Court -03
New Delhi District, PHC, New Delhi.

No. 1967-1972/Genl./NDD/PHC/2026 Dated, Delhi the 6/6/2026

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Officer-in Charge, General Branch
District Judge, Commericial Court -03
New Delhi District, PHC, New Delhi.

2026 INSC 355

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026

(Arising out of Special Leave Petition (Crl.) No. 6843 OF 2024)

MILIND S/O ASHRUBA DHANVE AND ORS. …**APPELLANTS**

VERSUS

THE STATE OF MAHARASHTRA …**RESPONDENT**

J U D G M E N T

J.K. MAHESHWARI, J.

1. Leave granted.

2. Present appeal is against the final judgment and order dated 26.02.2024 of the High Court of Judicature at Bombay, Bench at Aurangabad *(hereinafter, **'High Court'**)*, in Criminal Appeal No. 506 of 2023. The High Court upheld the conviction and sentence for the charge of Sections 323 and 324 read with Section 34 of the Indian Penal Code *(hereinafter, **'IPC'**)*, as determined by the Special Judge (POCSO), Beed. The Trial Court, as affirmed by the High Court,

imposed sentences, whereby Appellant Nos. 1, 2 and 3 *(hereinafter,* ***'A-1, A-2 and A-3'*** *respectively)* were each directed to pay a fine of Rs. 500/- under Section 323, with default stipulation of 15 days' simple imprisonment; and a fine of Rs. 2000/- under Section 324, with default stipulation of one-month simple imprisonment, both read with Section 34 of IPC. Appellant No. 4 *(hereinafter,* ***'A-4')*** was directed to pay a fine of Rs. 500/- under Section 323 read with Section 34 of IPC, with a default stipulation of 15 days' simple imprisonment. The present appeal has been preferred assailing the aforesaid findings.

FACTS IN BRIEF

3. It is the case of prosecution that the victim, a 17-year-old girl, was at her home during Diwali vacation. On 02.11.2019, at around 8.30 A.M. while she was standing outside her house, the accused persons approached her. A-1 grabbed her hand, pressurized her for relationship and gave proposal of marriage since her father wasn't agreeing. Upon which she screamed and her grandmother as well as sister came out and confronted the Appellants. At that moment, A-2 assaulted the sister, and A-3 pushed the grandmother. Thereafter,

the victim informed about the incident to her father at his nearby garage. At about 9:30 A.M, all five accused (including one accused who was acquitted by the Trial Court) arrived in a white Sumo vehicle and attacked the father of the victim. A-2 struck on the head by iron *tambi*, A-1 hit on leg with an iron rod, A-3 beat with a wooden stick, A-4 assaulted with fists and kicks, while co-accused Dayabai instigated them. During the incident, ₹2,000 fell from the father's pocket. Bystanders rescued him and took the family to the police station. The injured father was referred to a Government Hospital. An FIR of the incident was registered on 02.11.2019 as Crime No. 190/2019 under sections 143, 147, 148, 149, 324, 323, 354-A, 504, 506 of IPC and sections 8 and 12 of POCSO, 2012. Learned Trial Court acquitted accused Dayabai for all the charges while other accused persons, who are Appellants before us, were acquitted for all the charges except as specified in paragraph (2) above. Upon filing appeal, the High Court *vide* the impugned order dismissed the same, hence, the present appeal.

4. In this Criminal Appeal, notice was issued *vide* order dated 17.05.2024, however, when it was listed on 11.12.2024, learned counsel for the Appellants submitted that they do not wish to press

the appeal on merits and urged to consider benefit of Sections 3 and 4 read with Sections 12 of the Probation of Offenders Act, 1958 *(hereinafter,* ***'1958 Act'****).*

ARGUMENTS ADVANCED

5. Mr. Amol B. Karande, learned counsel for the Appellants, has contended that present is a fit case to grant benefit of Sections 3 and 4 read with Section 12 of 1958 Act. In support, reliance was placed on ***Rattan Lal v. State of Punjab***[1]**,** submitting that 1958 Act recognizes the reformative theory of punishment and object of the penal law is more to reform the individual offender than to punish. It has also been said that it is the duty of the sentencing court to be activist enough to collect such facts bearing in mind the rehabilitative approach, as has been observed in ***Ved Prakash v. State of Haryana***[2].

6. In reference to the fact and looking at the nature of offences, i.e., voluntarily causing hurt and voluntarily causing hurt by dangerous weapons, it is contended that the Appellants may be

[1] 1964 SCC OnLine SC 40

[2] (1981) 1 SCC 447

released after admonition or on probation of good conduct. Placing reliance upon the decision of this Court in ***Mohd. Hasim v. State of Uttar Pradesh***[3], it has been argued that Sections 3 and 4 of the 1958 Act vests discretionary power on Court to release a convict on probation of good conduct on bond with or without sureties, even at the appellate or revisional stage. It is further argued that the word *'expedient'* used in Sections 3 and 4 ought to be construed in its widest amplitude to mean what is apt, suitable, and appropriate to the end in view. In the facts and circumstances of the present case, releasing the Appellants on a bond of good conduct would be entirely consistent with the letter and the spirit of the enactment. As such Appellants may be released after admonition or on probation on bond with or without sureties as may be deemed fit.

7. *Per contra*, learned counsel appearing for the State submitted that the conviction and sentence imposed by the Trial Court, as confirmed up to the High Court *vide* impugned judgment does not warrant interference. The benefit of the 1958 Act is being sought mainly on the ground that it may cause prejudice in employment to

[3] (2017) 2 SCC 198

A-1 and A-4 who are in government service, rather than on any genuine merits warranting probation.

8. It has further been contended with respect to applicability of Section 3 that the A-4, who has been sentenced under Section 323 IPC only may be benefitted. A-1, A-2 and A-3, who stand convicted under Section 324 IPC fall outside the scope of benefit under Section 3, as claimed. It has been vehemently argued that the true import and object of Section 4 is to spare an offender from incarceration and shield them from the deleterious effects of jail life, postponing the receiving of sentence for a period not exceeding three years; unlike Section 3, which expunges the imprisonment itself. Since A-1, A-2 and A-3 have been sentenced only for payment of fine and not to any term of imprisonment, the very premise underlying Section 4 is absent in this case. Therefore, it has been urged, the prayer for probation qua A-1, A-2 and A-3 is wholly unjustified and liable to be rejected at threshold.

ANALYSIS

9. In light of the arguments advanced and, in the facts of the present case, issues that fall for our consideration are - **(i)** *Whether*

the Appellants are entitled to the benefit of Sections 3 and 4 of the 1958 Act, and if so, to what extent?; ***(ii)*** *Whether the benefit of Section 4 of the 1958 Act is available to an offender who has been sentenced only with payment of fine, and not to any term of imprisonment?*

10. Since the Appellants have pressed this appeal limited to the grant of benefit under the 1958 Act, therefore, to understand the intent of the provisions of the said Act and the extent to which it may be allowed to an offender who requires to be punished, including by way of fine only, both the issues are dealt with simultaneously and in reference to the provisions of the 1958 Act, the Code of Criminal Procedure, 1973 *(hereinafter,* ***'CrPC'****)*, the Bhartiya Nagarik Suraksha Sanhita, 2023 *(hereinafter,* ***'BNSS'****)*, the IPC and the Bhartiya Nyaya Sanhita, 2023 *(hereinafter,* ***'BNS'****)*.

11. At the outset, it is required to be noted that 1958 Act is a beneficial legislation, therefore, keeping the legislative intent in mind, its provisions ought to be interpreted in a purposive manner. It is trite law that if two or more views are possible vis-a-vis interpretation of a beneficial legislation, it must be interpreted in favour of

beneficiaries.[4] The objects clause of the 1958 Act declares the act to provide for the release of offenders on probation or after due admonition and the matters connected therewith. While introducing the Probation of Offenders Bill, 1957 to the Lok Sabha on 14.11.1957, the then Minister of State for Home Affairs remarked as follows –

> ***"****On a number of occasions, the Inspector-General of Prisons in the various States have met. From 1925 onwards there were a number of meetings and the Inspectors-General who are in close touch with the life of the convict behind the prison bars found that oftentimes the particular rigour to which the convict has been subjected or the life that he leads there produces certain results other than those expected.* ***The expected result would be that the man must reform himself, and that after he comes out of the jail, he ought to lead a reformed life, he ought to return to the proper or social life to which every citizen has to confine himself. But oftentimes on account of the long period behind the prison bars, the man does not improve; on the other hand, he shows certain sign of deterioration or worse results.*** *That was the reason why it was considered necessary that the question of prison reform or the question of the reform of the convict or the prisoner ought to be considered not only from the point of view of the administration as such, not only from the point of view of its having a deterrent effect upon him, but also from the point of view of improving this particular man, namely the convict.*

[4] See, *Bharat Singh* v. *New Delhi Tuberculosis Centre*, (1986) 2 SCC 614; *Kerala Fishermen's Welfare Fund Board* v. *Fancy Food*, (1995) 4 SCC 341; *Union of India* v. *Prabhakaran Vijaya Kumar*, (2008) 9 SCC 527; *Bombay Anand Bhavan Restaurant* v. *ESI Corpn.*, (2009) 9 SCC 61

The principle that is followed in this connection is that a man becomes a criminal on account of certain circumstances or on account of certain tendencies, which are anti-social and which are criminal, so far as he is concerned. So the way to reform him and to bring him back to human standards is to find out certain items of reform by means of which he would become a good man, and after some time, he would become a better man.

*These are two standards that we have taken into account.***"**

12. After introduction in the Lok Sabha, it was referred to the Joint Committee on 18.11.1957. Similarly, Rajya Sabha also agreed to said reference to the Joint Committee on 26.11.1957. The Joint Committee prepared its report on 19.2.1958 and the bill was again discussed in the Lok Sabha on 26.04.1958. In the opening statement, the then Dy. Minister of Home Affairs reflected upon the objectives of the act in following words –

"*.....Therefore we feel* ***that if we have such good human material inside the prison, we should give this human material every opportunity to rehabilitate itself in society without the stigma of conviction and prison term****.....*

.....To avoid this stigma, we want to try out this most progressive measure in the country and see that the men and women who become offenders for the first time or even offenders for the second or the third time, as we call them hopeless, are given an opportunity.....

*.....****The meaning of probation is suspended sentence. Suspended sentence means that he will be left in***

> ***society under the guidance and care of a probation officer or of a surety or of such other agent who would be able to look after him and assist him and see that he behaves well and is able once again to become what we call a good citizen****……..*
>
> *…..We are only trying to rehabilitate those many hundreds and hundreds of offenders who because of, may be, socio-economic considerations or other stringencies, or may be, their mental make-up, commit certain offences. Therefore, we have certain sections of the Indian Penal Code only in which probation would be permitted to be granted by courts…..****"***

13. From the above, it can safely be gathered that the object and purpose of the 1958 Act is to rehabilitate offenders and make an attempt to reintegrate them into the mainstream of the society as reformed citizens, rather than to punish for their delinquent actions. What weighed in the mind of the law makers was that crime is, more often than not, a product of numerous socio-economic circumstances and that punishment may in fact lead to further deterioration of his character. In other words, the 1958 Act seeks to harmonize deterrence and reformation while empowering the courts to release the offenders after admonition or on probation of good conduct under supervision of the probation officer. It saves the offenders from the stigma of conviction as well as imprisonment and affords them an opportunity to return to the social life with dignity. In light of the

above discussion, the 1958 Act requires purposive interpretation keeping in mind its objectives.

14. Since the main argument of the Appellants is canvassed for the benefit of 1958 Act, in particular Sections 3 and 4, we will deal with the provisions empowering the Courts either to release the offender after admonition or on probation of good conduct. To understand the situations in which the benefit of Sections 3 and 4 of the 1958 Act can be made available to an offender, it is necessary to refer to those provisions hereunder:

> ***"3. Power of court to release certain offenders after admonition. —*** *When any person is found guilty of having committed an offence punishable under Section 379 or Section 380 or Section 381 or Section 404 or Section 420 of the Indian Penal Code (45 of 1860), or any offence punishable with imprisonment for not more than two years, or with fine, or with both, under the Indian Penal Code or any other law, and no previous conviction is proved against him and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient so to do, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him to any punishment or releasing him on probation of good conduct under Section 4, release him after due admonition.*
>
> *Explanation – For the purposes of this section, previous conviction against a person shall include any previous order made against him under this section or section 4.***"**

Upon reading of Section 3, it is apparent that benefit thereof can be granted only when offender is found guilty of committing the offence as specified therein or any offence punishable with not more than two years or fine or both under IPC or any other law and such offender does not have any antecedents of previous conviction. In the said contingencies, if the Court is of the opinion that looking to the nature of offence, circumstances and the character of offender, it is expedient to do so, it may pass an order of release after admonition, instead of sentencing or passing an order under Section 4.

15. Similarly, Section 4 deals with the cases of those offenders, who can be released on probation of good conduct. For ready reference, it is reproduced as thus:

> ***"4. Power of court to release certain offenders on probation of good conduct. —***
>
> *(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not*

exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that the court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or a regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to reside during the period of the bond.

(2) Before making any order under sub-section (1), the court shall take into consideration the report, if any, of the probation officer concerned in relation to the case.

(3) When an order is made under this section, the court may, if it is of opinion that in the interests of the offender and of the public it is expedient so to do, in addition, pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as may be specified therein, and may require the offender to comply with such conditions as may be specified in the supervision order.

(4) The court making a supervision order under sub-section (3) shall require the offender, before releasing him, to enter into a bond, with or without sureties, to observe the conditions of the supervision order and such additional conditions with respect to residence, abstention from intoxicants or any other matter as the court having regard to the particular circumstances of the case may think fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender.

*(5) The court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned.***"**

16. A perusal of the above makes it clear that if a person is found guilty of an offence which is not punishable with either death or

imprisonment for life and the Court, having regard to the circumstances of the case which includes nature of the offence and the character of the offender, is of the opinion that it is expedient to do so, notwithstanding any other law for the time being in force, instead of sentencing at once of any punishment for such offence, the accused may be released on furnishing the bond, with or without sureties. It is also prescribed that the Court may direct him to appear and receive the sentence during such period when called upon, which may not exceed three years. In the meantime, such person has to keep peace and be of good behaviour. It is clarified that such an order ought to be passed by the Court only after recording satisfaction regarding place of stay of the offender or his surety or about the regular occupation in the place where the court exercises jurisdiction or at a place where the offender may likely reside during period of bond. The Court should also take into consideration the report of the probation officer while passing such order, if such report is available. An order of supervision can also be passed by the Court, if it is of the opinion that such an order will be in the interest of the offender and of the public, directing the offender to remain under the supervision of a probation officer named in the order during period, which shall

not be less than one year. The condition, if any, imposed by the Court, is required to be complied with by the offender, as prescribed in the supervision order. The offender is required to enter into a bond, with or without sureties, and to observe the conditions as contained hereinabove and such additional conditions with respect to residence, abstention from intoxicants or any other matter which the Court may think fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender. The conditions, as imposed for supervision and circumstances as indicated in the order has to be explained to the offender and a copy of such order has to be furnished to each offender, sureties and the probation officer.

17. At this stage, it is necessary to make it clear that under Section 3, a convict can be released by the Court after admonition only with respect to offences as specified therein. On the other hand, while exercising the power under Section 4, the Court may release the offender on probation of good conduct with respect to the offences as prescribed.

18. It is not out of place to specify that in context of the object and reasons for which the 1958 Act was brought, powers have been conferred upon the Court primarily under Sections 3 and 4. As contemplated under Section 11, the Courts are competent to make such orders even during appeal and revision. Further, once the benefit either under Section 3 or Section 4 has been granted to such offender, it would entail the benefit of removal of disqualification, if any, attaching to the conviction. Therefore, Section 12, in this regard, is relevant, which is reproduced as thus:

> ***"12. Removal of disqualification attaching to conviction. —*** *Notwithstanding anything contained in any other law, a person who has been released on probation of good conduct under Section 4 or after admonition under Section 3 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:*
> *Provided that nothing in this section shall apply to a person who, after his release, is sentenced to imprisonment for the commission of the original offence or of any other offence."*

19. On perusal, it is quite clear that in case a person has been released after admonition under Section 3 or on probation of good conduct under Section 4, they shall not face a disqualification attaching to such conviction.

20. Learned counsel for the Respondents vociferously objected to extending the benefit of 1958 Act to A-1, A-2 and A-3 who have been convicted for the charge of Section 324 IPC, in addition to the charge of Section 323 IPC. It is contended that in Section 4 of the 1958 Act, the expression used *'release of the offender'* has some significance and in the case at hand, the Appellants have not been sentenced of imprisonment but were fined, therefore, passing an order of release in this case is not possible.

21. The said argument was countered by the Appellants, referring to Section 53 of IPC and Section 4 of BNS, wherein fine has been included within the connotation *'punishment'* along with other categories of punishment including imprisonment. The applicability of Section 4 of 1958 Act is with respect to the offences not punishable with death or life imprisonment, therefore barring the sentence of death and life imprisonment, in case the punishment, if any, including the fine has been awarded, the release order can be passed by the Court under Section 4 of 1958 Act even in case of fine.

22. Having considered the contentions as advanced and to appreciate them, it would be necessary to refer to Section 53 of IPC

and corresponding provisions of Section 4 of BNS. Both the Sections are reproduced hereunder in tabular form for comparison –

Section 53 of IPC	Section 4 of BNS
53. Punishments. — The punishments to which offenders are liable under the provisions of this Code are — First – Death; Secondly – Imprisonment for life; Thirdly – [Omitted by Act 26 of 1955, s. 117 and Sch.]; Fourthly – Imprisonment, which is of two descriptions, namely: - (1) Rigorous, that is, with hard labour; (2) Simple; Fifthly – Forfeiture of property; Sixthly – Fine.	**4. Punishments. —** The punishments to which offenders are liable under the provisions of this Sanhita are — (a) Death; (b) Imprisonment for life; (c) Imprisonment, which is of two descriptions, namely:— (1) Rigorous, that is, with hard labour; (2) Simple; (d) Forfeiture of property; (e) Fine; (f) Community Service.

23. In view of the above, it is clear that Section 53 of IPC has been adopted as it is in Section 4 of BNS while also adding another punishment in nature of community service. This is also indicative of the paradigm shift in the legislative intent from deterrence to reformation which has been reaffirmed while prescribing the mode of punishment in BNS.

24. In view of the above, it is a clear that for an offender, the punishments may include the death, imprisonment for life, imprisonment (rigorous with hard labour or simple), forfeiture of property, fine and community service in terms of the recent addition in BNS. Since Sections 3 and 4 of the 1958 Act govern acts committed by an offender in relation to the specific punishments prescribed under the IPC, BNS and any other law, these provisions must naturally extend to sentences including fine. Consequently, the argument advanced by the learned counsel for the State that Section 4 is inapplicable in case sentence consist solely of a fine, is entirely devoid of merit.

25. Therefore, any reference to *'punishment'* in 1958 Act has to be construed as per enumeration contained in Section 53 of IPC and Section 4 of BNS and should undoubtedly include 'fine' as well. From the above discussion, it is luculent that, the benefit of Section 4 of the 1958 Act is available to an offender who has been sentenced only to payment of fine.

26. During course of arguments, much emphasis was laid by the Counsel for the State that Section 4 uses the expression *'release'* in

context of *'instead of sentencing'* and thus, when the person is sentenced only for fine and not for imprisonment, there is no occasion for the Court to *'release'* him, thereby making application of Section 4 of 1958 Act impossible. In light of the discussion in the preceding paragraphs, the expression *'release'* has to be read accordingly. In this context, we are of the opinion that *'release'* cannot mean release only from custody. It has to be read as releasing from the obligation to serve sentence of payment of fine. This view is further strengthened by the meaning of the word *'release'* as contained in ***Advanced Law Lexicon***[5]. It is defined, *inter-alia,* as *'to set at liberty'.* Therefore, *'release'* as contained in Section 4 of 1958 Act should be read as to set the offender at liberty from receiving sentence, even of fine only.

27. In addition to the provisions as contained under the 1958 Act, the CrPC also confers powers upon the Court to make an order of release on probation of good conduct or after admonition as per Section 360[6]. The said provision is reproduced as thus –

[5] P Ramanatha Aiyar, Advanced Law Lexicon, Pg. 4037 (3rd Edition, 2005, Wadhwa Nagpur)

[6] Section 401 of BNSS is corresponding provision.

"360. Order to release on probation of good conduct or after admonition. —

(1) When any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that where any first offender is convicted by a Magistrate of the second class not specially empowered by the High Court, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by sub-section (2).

(2) Where proceedings are submitted to a Magistrate of the first class as provided by sub-section (1), such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

(3) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code (45 of 1860),

punishable with not more than two years, imprisonment or any offence punishable with fine only and no previous conviction is proved against him, the Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

(4) An order under this section may be made by any Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) When an order has been made under this section in respect of any offender, the High Court or Court of Session may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law: Provided that the High Court or Court of Session shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(6) The provisions of sections 121, 124 and 373 shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.

(7) The Court, before directing the release of an offender under sub-section (1), shall be satisfied that an offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(8) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(9) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a

sufficient surety conditioned on his appearing for sentence and such Court may, after hearing the case, pass sentence.

*(10) Nothing in this section shall affect the provisions of the Probation of Offenders Act, 1958 (20 of 1958), or the Children Act, 1960 (60 of 1960) or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.***"**

28. From reading of the above, it is apparent that Section 360 of the CrPC and Sections 3 and 4 of the 1958 Act share a common thread i.e., reformation but at the same time their framework differs in their scope and structure. Section 360 of CrPC creates eligibility distinctions based on age and gender. In case of persons under 21 years of age and women, benefit is extended to all offences not punishable with death or life imprisonment, while restricting person not below 21 years of age to offences carrying a maximum of seven years or less or fine only. On the other hand, Sections 3 and 4 of the 1958 Act, extend the benefit universally without any age or gender classification, focusing on the nature of the offence and the character of the offender. At this stage, it is also pertinent to take note of Section 6 of the 1958 Act, which casts a positive obligation upon the Court to record reasons for not dealing the offender under Sections 3 and 4 of 1958 Act, in case such offender is below twenty-one years

of age having committed offence not punishable with imprisonment for life. Therefore, the distinction sought to be created by Section 6 based on age of the offender is in different context.

29. Benefit under Section 360(1) and (3) of CrPC can enure only in absence of a prior conviction, whereas Section 4 of the 1958 Act leaves antecedents of the offender to the Court's discretion, and Section 3 of the 1958 Act while requiring absence of prior conviction also expands the concept of *previous conviction* to include prior orders under the Section 3 and 4 of the 1958 Act itself. Importantly, Section 360 CrPC is bereft of any supervisory mechanism whatsoever, while Section 4 of the 1958 Act establishes an elaborate mechanism involving probation officers, supervision orders, and conditions as prescribed in sub-section (3) and (4). Moreover, 1958 Act contemplates report of the probation officer which is absent from the framework of Section 360 CrPC.

30. The relationship between the Section 360 of CrPC and the 1958 Act has been subject matter of judicial pronouncements by this Court. The Division Bench of this Court in ***Sanjay Dutt (A-117) v.***

State of Maharashtra*[7]*, while relying upon the inherent differences between these two frameworks, held that they could not be intended to co-exist. It was observed as thus –

> ***"****81. Section 360 of the Code of Criminal Procedure does not provide for any role for probation officers in assisting the courts in relation to supervision and other matters while the Probation of Offenders Act does make such a provision. While Section 12 of the Probation of Offenders Act states that a person found guilty of an offence and dealt with under Section 3 or 4 of the Probation of Offenders Act, shall not suffer disqualification, if any, attached to the conviction of an offence under any law. The Code of Criminal Procedure does not contain parallel provision.* ***Two statutes with such significant differences could not be intended to co-exist at the same time in the same area. Such co-existence would lead to anomalous results. The intention to retain the provisions of Section 360 of the Code and the Probation of Offenders Act as applicable at the same time in a given area cannot be gathered from the provisions of Section 360 or any other provisions of the Code."***

31. Nonetheless, this issue fell for consideration before another Division Bench in ***Lakhanlal v. State of M.P.*[8]*,*** where this Court held both the frameworks to be mutually co-existent in following words –

> ***"****14. At this stage, it may be noticed that a two-Judge Bench of this Court in Sanjay Dutt v. State of Maharashtra [Sanjay Dutt v. State of Maharashtra, (2013) 13 SCC 1, at p. 964 :*

[7] 2013 SCC OnLine SC 252

[8] (2021) 6 SCC 100

(2014) 7 SCC (Cri) 1, at p. 964] considering the provisions of Section 360 of the Code and Sections 3 and 4 of the 1958 Act held that the co-existence of such provisions would lead to anomalous results. It was further held that the intention to retain the provisions of Section 360 of the Code and the 1958 Act at the same time in a given area cannot be gathered from the provisions of Section 360 or any provision of the Code, when the Court held as under : (SCC p. 1012, para 2935)

> *"2935. Section 360 of the Code of Criminal Procedure does not provide for any role for probation officers in assisting the courts in relation to supervision and other matters while the Probation of Offenders Act does make such a provision. While Section 12 of the Probation of Offenders Act states that a person found guilty of an offence and dealt with under Section 3 or 4 of the Probation of Offenders Act, shall not suffer disqualification, if any, attached to the conviction of an offence under any law. The Code of Criminal Procedure does not contain parallel provision. Two statutes with such significant differences could not be intended to co-exist at the same time in the same area. Such co-existence would lead to anomalous results. The intention to retain the provisions of Section 360 of the Code and the Probation of Offenders Act as applicable at the same time in a given area cannot be gathered from the provisions of Section 360 or any other provisions of the Code."*

15. ***We find that the attention of the Court was not drawn to sub-section (10) of Section 360 which provides that Section 360 will not affect the provisions of the 1958 Act or other similar laws for the time being in force for the treatment, training or rehabilitation of youthful offenders. Still further, Section 4 of the 1958 Act has a non obstante clause, giving overriding effect over any other provisions of law.***

> *16. The conjoint reading of the provisions of both the statutes,* ***we find that the provisions of Section 360 of the Code are in addition to the provisions of the 1958 Act*** *or the Children Act, 1960, or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.***"**

32. Therefore, it can be concluded that there have been divergent opinions of this Court with respect to relationship between Section 360 CrPC and 1958 Act. Be that as it may, we are only concerned with the issue whether offenders sentenced with 'fine only' can be granted benefit of Section 4 of 1958 Act and for that purpose alone we may take assistance from the language of Section 360 of CrPC which may be different in its scope, but forms part of the reformative approach shared by both the frameworks.

33. Even under the provision of CrPC, the legislative intent is reflective of the fact that in cases of minor offences that falls within the scope of Section 360 of CrPC, deterrent approach of punishment ought to be avoided while applying the reformative approach so that the offender need not face the deleterious effect of jail life as well as the stigma of conviction and such person can lead his life upon reintegration in society with dignity.

34. At this stage, it is important to ascertain as to under what circumstances an offender, who was found guilty for offences as prescribed, can avail the benefit of Sections 3 and 4 of the 1958 Act. It is also necessary to enumerate what may be relevant factors for the Court that can be taken into consideration while passing orders under Sections 3 and 4 of the 1958 Act. In this regard, we can profitably refer to various precedents explaining the circumstances in which such benefit can be extended.

35. In ***Rattan Lal*** (Supra), this Court was having an occasion to consider the object of Sections 3 and 4, in general, and Section 6, in particular, of the 1958 Act. It was observed that –

> *"4.* ***The Act is a milestone in the progress of the modern liberal trend of reform in the field of penology. It is the result of the recognition of the doctrine that the object of criminal law is more to reform the individual offender than to punish him.*** *Broadly stated, the Act distinguishes offenders below 21 years of age and those above that age, and offenders who are guilty of having committed an offence punishable with death or imprisonment for life and those who are guilty of a lesser offence. While in the case of offenders who are above the age of 21 years absolute discretion is given to the court to release them after admonition or on probation of good conduct, subject to the conditions laid down in the appropriate provisions of the Act, in the case of offenders below the age of 21 years an injunction is issue to the court not to sentence them to imprisonment unless it is satisfied that having regard to the circumstances of the case;*

*including the nature of the offence and the character of the offenders, it is not desirable to deal with them under Sections 3 and 4 of the Act.***"**

36. This Court, while considering the factors relevant for the purpose of extending the benefit of Section 360 CrPC or of 1958 Act, in ***Ved Prakash*** (Supra) opined that the Court must ascertain relevant material regarding social background and the personal information of the crime-doer. While releasing the accused on probation of good conduct, this Court, through Krishna Iyer, J. observed as thus –

"*.....The materials before us are imperfect because the trial court has been perfunctory in discharging its sentencing functions.* ***We must emphasise that sentencing an accused person is a sensitive exercise of discretion and not a routine or mechanical prescription acting on hunch. The trial court should have collected materials necessary to help award a just punishment in the circumstances. The social background and the personal factors of the crime-doer are very relevant although in practice criminal courts have hardly paid attention to the social milieu or the personal circumstances of the offender.*** *Even if Section 360 CrPC is not attracted, it is the duty of the sentencing court to be activist enough to collect such facts as have a bearing on punishment with a rehabilitation slant.....*

.....In the present case, the offender is a young person and his antecedents have no blemish. ***His life is not unsettled or restless and the report indicates that he is an agriculturist, pursuing a peaceful vocation. His parents are alive and he has a wife and children to***

maintain. These are stabilising factors in life. A long period of litigation and the little period of imprisonment suffered, will surely serve as a deterrent. We are mindful of the fact that a firearm has been used by the appellant and we cannot sleep over the gravity of the offence. Nevertheless, the report of the Probation Officer states that the appellant is not given to any bad habits or stresses of poverty. A land dispute led to the crime and that does not survive any longer. The Probation Officer recommends that an opportunity be given to the appellant to improve himself and bring up his family by honest labour as an agriculturist so that the interests of social defence may be secured. *We are inclined to agree that in this case the appellant may be given the benefit of the Probation of Offenders Act. We are satisfied that the offender has a fixed place of abode and regular occupation. We are inclined also to rely on the Probation Officer's report which supports the direction for release on probation. We, therefore, direct that the appellant be released under Section 4(1) of the Probation of Offenders Act, 1958, and instead of sentencing him, direct that he be released on his entering into a bond before the trial court with two sureties, one of whom shall be his father, to appear and receive sentence when called upon during the period of three years from the date of release and in the meantime to keep the peace and be of good behaviour. In addition, we pass an order that the Probation Officer shall have supervision over the offender for a period of one year and shall make reports once every three months to the Sessions Court about the conduct of the offender. We direct further, that the appellant shall be specially supervised from the point of consumption of intoxicants and the matter brought to the notice of the court in case the appellant violates. The undertaking to be incorporated in his bond shall contain a term that he shall not consume alcohol during the period covered by the bond. We allow the appeals in the manner above indicated.”***

As indicated, other factors that were considered are age, antecedents, character, habits, economic conditions, occupation, fixed place of abode, familial responsibilities, gravity of offence, origin of dispute etc., so that an opportunity can be given to the accused to improve himself and to bring up his family or may live with sense of social security.

37. Similarly, when grant of relief under Section 4 of the 1958 Act came up for consideration in ***State of Maharashtra v. Jagmohan Singh Kuldip Singh Anand***[9] for offences under Sections 324, 452/34 IPC, this Court in the circumstances extended benefit of probation subject to execution of a bond for good behavior. Factors that were considered by this Court may have some significance; therefore, the relevant paragraph is reproduced as under –

> ***"****27. The learned counsel appearing for the accused submitted that the incident is of the year 1990. The parties are educated and neighbours.* ***The learned counsel, therefore, prayed that benefit of the Probation of Offenders Act, 1958 may be granted to the accused. The prayer made on behalf of the accused seems to be reasonable. The incident is more than 10 years old. The dispute was between the neighbours over a trivial issue of cleaning of drainage. The incident took place in a fit of anger. All the parties are educated and also distantly related. The incident is not such as to direct***

[9] (2004) 7 SCC 659

> ***the accused to undergo sentence of imprisonment.*** *In our opinion, it is a fit case in which the accused should be released on probation by directing them to execute a bond of one year for good behaviour.**"***

38. In another case of ***Dalbir Singh v. State of Haryana***[10], this Court was having an occasion to consider the circumstances of the case and the nature of offences in which the court may exercise power under Section 4 of the 1958 Act. Although the plea of the accused in that case vis-à-vis grant of such benefit was rejected, nonetheless, it was observed as thus –

> ***"****8. Parliament made it clear that only if the court forms the opinion that it is expedient to release him on probation for his good conduct regard being had to the circumstances of the case. One of the circumstances which cannot be sidelined in forming the said opinion is "the nature of the offence".*
>
> *9. Thus Parliament has left it to the court to decide when and how the court should form such opinion.* ***It provided sufficient indication that releasing the convicted person on probation of good conduct must appear to the court to be expedient.*** *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 138 : AIR 1974 SC 2233] a three-Judge Bench of this Court has considered*

[10] (2000) 5 SCC 82

the word "expedient". Learned Judges have observed in para 21 thus: (SCC p. 145)

> *"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 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)."*

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."***

39. Therefore, release on probation of good conduct under Section 4 of the 1958 Act depends on the Court forming an opinion that such release is expedient. In doing so, the Court must consider relevant factors, particularly the nature of the offence. Naturally, probation should be granted only where the Court records the satisfaction as per the factors indicated above, and grant of benefit would serve the

purpose with intent to reform the offenders. The said judgment has been followed in the case *of* ***Mohd. Hashim v. State of U.P.***[11], whereby benefit under Section 4 of the 1958 Act in a case involving offences under Section 323 and 498-A of IPC along with Section 3 and 4 of Dowry Prohibition Act, 1961 was granted by this Court.

40. In light of the above analysis, now we may embark upon to consider the case of Appellants for purpose of benefit under 1958 Act. In the instant case, the Appellants were convicted under Section 323 and 324 of IPC and the allegations as proved relates to assault upon the persons belonging to same locality. The Appellants were sentenced to pay a fine of only Rs. 500/- under Section 323 and Rs. 2000/- under Section 324 of IPC. As such, it is apparent that, the trial Court as well as the High Court did not award any imprisonment to the Appellants and directed only payment of fine.

41. Moreover, this Court *vide* order dated 10.02.2025 sought report from the State regarding the conduct and of any subsequent or prior involvement in commission of any offence. In the affidavit filed on 22.02.2025, it is said that only present criminal case has been

[11] (2017) 2 SCC 198

registered against the Appellants. Further, as borne from the records, it is seen that A-1 and A-4 are employed with State Government in Public Work Department and as Assistant Teacher in Education Department respectively. It is also pertinent to note that the Appellants have not committed an offence involving moral turpitude. Given the said circumstances and considering the purport of Section 3 and Section 4 of 1958 Act, we find it expedient to extend the benefit of said provisions to the Appellants.

CONCLUSION

42. In view of the above discussion, A-1, A-2 and A-3 who have been sentenced with fine under Sections 323 and 324 read with Section 34 of IPC, therefore, they do not satisfy the pre-requisite contained in Section 3. Thus, while confirming the conviction, we direct that they be granted benefit under Section 4(1) of the 1958 Act and instead of sentencing them, we direct that they be released on entering into a bond for one year before the jurisdictional Trial Court with sureties. Moreover, they are further directed to appear and receive sentence as and when called upon during the said period from the date of release. They shall further maintain peace and good

behavior, and the Probation Officer shall keep supervision and submit report once in every three months to the Court concerned. Any other conditions may also be imposed by the Court, if deemed necessary.

43. Insofar as A-4 is concerned, he has been sentenced for the charge under Section 323 read with Section 34 of IPC, which satisfies the pre-requisites of Section 3 of 1958 Act. Therefore, we extend the benefit of the said Section in his favour and instead of sentencing him, we direct that he be released after due admonition by the jurisdictional Court.

44. We make it clear that the amount of fine as directed by the Trial Court and confirmed by High Court, to be paid by all the Appellants, if not already deposited, shall be deposited before the jurisdictional Court, and be treated as compensation towards the victim(s). The amount shall be paid within a period of 4 weeks from the date of this judgment, failing which, the jurisdictional Court shall take appropriate steps for recovery and send a report to the Registry of this Court.

45. Moreover, since all the Appellants have been extended the benefit under Sections 3 and 4 of the 1958 Act, they shall not incur any disqualification affecting their service career, if any, arising out of the conviction, in terms of Section 12 of the 1958 Act.

46. Accordingly, the appeal stands disposed-of in above terms. Pending application(s), if any, shall stand disposed-of.

.....J.
(J.K. MAHESHWARI)

.....J.
(ATUL S. CHANDURKAR)

New Delhi;
April 10, 2026.