IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-2697-2025 (O&M)
Reserved On: 30.10.2025
Pronounced On: 14.11.2025

Lakshay Jain ...Petitioner(s)

VERSUS

State of Punjab and another ...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Amit Khari, Advocate for the petitioner.

Mr. Saurav Verma, Addl. A.G, Punjab.

Mr. Ketan Chopra, Advocate for respondent no. 2

VINOD S. BHARDWAJ, J.

The instant criminal revision petition has been preferred against the judgment and order of sentence dated 17.10.2018 passed by the Judicial Magistrate First Class, Ludhiana, whereby the revisionist-petitioner has been convicted and sentenced as under:-

Name of convict	Offence under Section	Sentence
Lakshay Jain	279 IPC	R.I. for a period of 03 months
	304-A IPC	Rigorous imprisonment for two years and fine of Rs.100/- and in default thereof to further undergo rigorous imprisonment for a period of 15 days.

	337 IPC	Rigorous imprisonment for six months and fine of Rs.100/- and in default thereof to further undergo rigorous imprisonment for a period of 15 days.

All the sentences ordered to run concurrently.

2. Further challenge is made also to the judgment dated 30.09.2025 passed by the Additional Sessions Judge, Ludhiana, vide which appeal filed by the petitioner has been dismissed.

3. Briefly stated, the facts of the case are that on 23.06.2014, SI Manjit Singh received a *ruqa* from Police Station Division No. 3 regarding the admission of one Chander Kanta at CMC Hospital, who had sustained injuries in a roadside accident. Upon receiving the *ruqa*, SI Manjit Singh met the patient's son, Ravi Kumar, who disclosed that the accident had occurred in front of the PSPCL office outside Chhauni Mohalla near Shiv Mandir. Subsequently, the *ruqa* was sent to Police Station Salem Tabri. On 24.06.2014 and 25.06.2014, SI Balkar Singh, along with the police party, visited CMC Hospital and moved an application for recording the statement of Chander Kanta; however, the attending doctor declared her unfit to make a statement. On 28.06.2014, the complainant Ravi Kumar recorded his statement before the Investigating Officer, stating that on 22.06.2014, he and his mother, Chander Kanta, were returning home from Chand Cinema on his motorcycle bearing registration number PB10BX-9697 (make Platina). At about 7:45 PM,

when they reached near the PSPCL office adjacent to Shiv Mandir, a car bearing registration number PB10BP-1501 came from behind at high speed, being driven rashly and negligently, and struck their motorcycle. As a result, both he and his mother fell onto the road, sustaining injuries. The nearby public gathered, and both were taken to CMC Hospital in the said car. The driver of the car fled from the spot thereafter. Later, the complainant came to know that the name of the accused driver was Lakshay Jain. The accident was alleged to have occurred due to the rash and negligent driving of the said accused.

4. On the basis of aforesaid statement, FIR in the present case was registered and investigation conducted. The spot was inspected; site plan prepared; statements of witnesses recorded and various documents were taken into police possession.

5. On completion of investigation, final report under Section 173 Cr.P.C. was filed in the Court and documents were supplied to the accused-petitioner free of costs.

6. Finding a prima facie case having been made out, the petitioner was chargesheet for the commission of offence punishable under Sections 279, 337, 427 and 304-A of the Indian Penal Code, 1860.

7. In order to substantiate its case, the prosecution examined nine witnesses, namely PW-1 HC Ranjit Singh, PW-2 Rishi Kumar Chopra, PW-3 Ravi Kumar (complainant), PW-4 Baljinder Singh, Steno, Office of the State Transport Commissioner, Punjab, Chandigarh, PW-5 HC Sukhdarshan

Singh, PW-6 SI Balkar Singh, PW-7 Baljinder Singh, Steno-Typist, RTO Branch, Ludhiana, PW-8 Dr. Ramandeep Kaur, and PW-9 Dr. Paul Sudhakar John of CMC Hospital, Ludhiana.

8. HC Ranjit Singh (PW-1) deposed that during patrolling on 03.07.2014 with ASI Balkar Singh, a Swift car was stopped on suspicion at Old Sabzi Mandi, Ludhiana. The driver, identified as Lakshay Jain, was found to be wanted in FIR No. 128 dated 28.06.2014 at Police Station Salem Tabri for further investigation.

9. Further, prosecution examined PW-2 Rishi Kumar Chopra who deposed that on 22.06.2014, his elder brother, Ravi Chopra, was riding a motorcycle (PB10BX-9697) with their mother, Chander Kanta, as a pillion rider when a Swift car (PB10BP-1501) struck them near the PSPCL office, causing serious head and facial injuries to his mother, who was admitted to CMC Hospital and later died on 02.07.2014. He identified her body and proved his statement as Ex. PW2/A. In cross-examination, he admitted that he had not witnessed the accident himself and had learned of the incident from his brother.

10. Further, prosecution examined PW-3 Ravi Kumar, the complainant and eyewitness, who deposed in the lines of his initial version as given to the Police and the contents of the same are not repeated here for the sake of brevity. However, in cross-examination, he admitted that his motorcycle was facing toward Jagraon Bridge when the car hit them from behind. He stated that he didn’t see the offending vehicle and came to know

the number of the offending Swift car and the name of the accused on the same day after noting down the vehicle's registration number.

11. Further, prosecution examined PW-4 Baljinder Singh, Steno from the State Transport Commissioner's Office, Punjab, Chandigarh, who deposed that the Swift car bearing registration No. PB10BP-1501 was duly registered. He verified the registration record as correct and proved the documents as Ex. PW4/A and Ex. PW4/B.

12. Further, prosecution examined PW-5 HC Sukhdarshan Singh, deposed that he mechanically examined the Swift car (PB10BP-1501) and the motorcycle (PB10BX-9697) at the police station on the instructions of ASI Balkar Singh. He proved his reports as Ex. PW5/A and Ex. PW5/B.

13. Further, prosecution examined PW-6 SI Balkar Singh who deposed that on 24.06.2014, he visited CMC Hospital, Ludhiana, to record the statement of injured Chander Kanta but the doctor declared her unfit. Similar attempts on 25.06.2014 and 28.06.2014 also failed as she remained unfit for a statement. On 28.06.2014, however, Ravi Kumar's statement was recorded and proved as Ex. PW3/A, duly signed and attested. He also proved the FIR, site plan, and related documents. On 03.07.2014, after Chander Kanta's death, he prepared the necessary forms, added Section 304-A IPC to the case, and handed over the dead body to her son Ravi Chopra. He proved various memos, including the recovery memo of the motorcycle, arrest memo, and personal search memo. In cross-examination, he confirmed that the site plan was prepared based on Ravi Kumar's demarcation and that Chander Kanta had

died on 03.07.2014.

14. Further, prosecution examined PW-7 Baljinder Singh, Steno Typist from the RTO Office, Ludhiana, deposed that as per official records, driving licence No. PB1020100015093 was issued in the name of Lakshay Jain, son of Vipin Kumar Jain, and he proved the licence record as Ex. PG.

15. Further, prosecution examined PW-8 Dr. Ramandeep Kaur from the Department of Pathology, Government Medical College, who deposed that she conducted the post-mortem examination on the body of deceased Chander Kanta and placed on record the post-mortem report as Ex. PW8/A along with the accompanying pictorial diagram as Ex. PW8/B.

16. Further, prosecution examined PW-9 Dr. Paul Sudhakar John from CMC Hospital, Ludhiana, who deposed that patient Chander Kanta was admitted under his care on 22.06.2014 around 9:00 PM and was treated for the injuries sustained. He produced the relevant medical record, admission slips, and injury report, which were proved as Ex. PW9/A to Ex. PW9/E. In cross-examination, he stated that the patient had arrived at the hospital between 8:30 PM and 9:00 PM and admitted that the injuries could possibly have occurred due to an impact with a hard surface such as the ground.

17. No other prosecution witness/evidence was examined or produced and lastly the evidence of prosecution was got closed.

18. The statement of the petitioner was recorded under Section 313 of the Code of Criminal Procedure, wherein all incriminating circumstances and evidence appearing on record were put to him. The petitioner denied the

allegations in their entirety, described the prosecution case and evidence as false and fabricated, and asserted his innocence.

19. In his defence evidence, petitioner examined DW-1 Anil Kumar who deposed that on 22.06.2014, around 7:30–7:45 PM, he was at a petrol pump to refuel his scooter when he witnessed a motorcycle, reportedly a Platina bearing a number resembling 9697, lying on the road with three injured persons after being hit by an unidentified vehicle. He, along with others, tried to assist the victims and stopped a Maruti Swift car (PB10BP-1501) coming from the direction of Chand Cinema, requesting its driver to help transport an elderly injured woman and her son to the hospital. In cross-examination, he admitted that he had not seen the actual accident occur but saw the victims lying on the road near Shiv Mandir. He stated that he did not know the victims or the accused personally and was appearing as a summoned witness. He further added that the petrol pump was opposite the site of the accident and that the accused had taken the injured persons to the hospital with his and other bystanders' assistance.

20. No other defence evidence/witness was produced by accused during the phase of his defence evidence and lastly the defence evidence of accused as got closed.

21. After considering the arguments advanced, the testimonies of witnesses, and the evidence placed on record, the Trial Court, vide judgment dated 17.10.2018, held the petitioner guilty of offences punishable under Sections 279, 337, and 304-A of the Indian Penal Code, 1860, while acquitting

him of the charge under Section 427 IPC, and accordingly sentenced him as stated above.

22. Aggrieved by the aforesaid judgment of conviction and sentence, the petitioner preferred Criminal Appeal No. 777 of 2018 before the Court of the learned Additional Sessions Judge, Ludhiana. However, vide judgment dated 30.09.2025, the said appeal was dismissed, thereby affirming the conviction and sentence, hence, the present revision petition.

23. After arguing the matter at some length, counsel for the petitioner does not press the present revision petition on merits and contends that he would confine his challenge only to the quantum of punishment that has been so awarded. He submits that the claim of the petitioner for being given benefit of probation has not been considered even though he fulfilled all the pre-requisites for such benefit. The following mitigating circumstances are pointed out by the counsel for the petitioner.

(i) The incident in question occurred in June 2014, and more than eleven years have since elapsed. At the time of the incident, the petitioner was approximately 21 years and 11 months old and he has prior to the above accident or since then not been involved in any other criminal activity.

(ii) That the incident in question was an unfortunate and purely accidental occurrence, having taken place without any intention or overt act on the part of the petitioner.

(iii) The petitioner has endured the ordeal of a prolonged criminal trial

spanning over eleven years.

(iv) The matter has been amicably settled between the petitioner and the family members of the deceased. They have acknowledged that the incident was purely accidental and devoid of any criminal intent on the part of the petitioner.

(v) The present case is not one of hit-and-run as the petitioner himself took the injured to the hospital in his own car and ensured that she received quick medical treatment.

(vi) The petitioner is the sole earning member of his family, on whom his aged parents and dependents rely for sustenance. His prolonged incarceration has caused severe hardship to them, and his small business, which was the family's only source of livelihood, has also suffered significant losses during his confinement.

(vii) The family of the deceased has already received compensation in the proceedings before the Motor Accident Claims Tribunal (MACT).

24. Counsel for the petitioner also relies upon the ***judgment dated 31.07.2014 passed by this Court in Rajeev Kanojia v. State of U.T. bearing No. CRR-1250-2006*** in support of his contention that the sentence may be reduced to the period already undergone where the petitioner expresses willingness to compensate the aggrieved party and has no other criminal case pending against him, and the mitigating circumstances warrant leniency.

25. State counsel, on the other hand, contends that both the Courts have examined the evidence brought on record and concurrently recorded a finding of conviction against the petitioner. In a revisional jurisdiction, neither new line of defence can be adopted nor any reappreciation of the evidence can be undertaken. There is no illegality or perversity that has been pointed out by the petitioner, hence, there is no occasion that would call for upsetting the findings recorded or the sentence awarded and affirmed by the Courts.

26. Counsel for the complainant however submits that the matter has been amicably resolved and he has no objection to an indulgence being extended to the petitioner.

27. I have heard learned counsel for the parties and have gone through the impugned judgments.

28. Before considering the plea of the petitioner for grant of probation, the legal position for availing the benefit of probation needs to be kept in mind.

29. As per the settled principles of law governing the grant of probation, the benefit of probation is ordinarily extended to cases where the circumstances indicate a mere minor conflict with law instead of inherent criminal propensity or conduct reflecting a hardened or incorrigible disposition. The object of the Probation of Offenders Act is reformative and rehabilitative and not punitive. It aims to reintegrate an offender into the mainstream of society where such reintegration appears feasible. The aims and object of the Probation Act came to be decided by the Hon'ble Apex Court

in the case of ***Jugal Kishore Prasad v. State of Bihar reported as (1972) 2 SCC 633.*** Hon'ble Supreme Court while considering the scope of the Probation Act has held as under: -

> *"6. The Probation of Offenders Act was enacted in 1958 with a view to provide for the release of offenders of certain categories on probation or after due admonition and for matters connected therewith. The object of the Act is to prevent the conversion of youthful offenders into obdurate criminals as a result of their association with hardened criminals of mature age in case the youthful offenders are sentenced to undergo imprisonment in jail. The above object is in consonance with the present trend in the field of penology, according to which effort should be made to bring about correction and reformation of the individual offenders and not to resort to retributive justice. Modern criminal jurisprudence recognises that no one is a born criminal and that a good many crimes are the product of socio-economic milieu. Although not much can be done for hardened criminals, considerable stress has been laid on bringing about reform of young offenders not guilty of very serious offences and of preventing their association with hardened criminals. The Act gives statutory recognition to the above objective. It is, therefore, provided that youthful offenders should not be sent to jail, except in certain circumstances. Before, however, the benefit of the Act*

can be invoked, it has to be shown that the convicted person even though less than 21 years of age, is not guilty of an offence punishable with imprisonment for life. This is clear from the language of Section 6 of the Act. Sub-section (1) of that section reads as under: -

> *"When any person under twenty-one years of age is found guilty of having committed an offence punishable with imprisonment (but not with imprisonment for life), the Court by which the person is found guilty shall not sentence him 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 offender, it would not be desirable to deal with him under Section 3 or Section 4, and if the Court passes any sentence of imprisonment on the offender, it shall record its reasons for doing so."*

30. The aforesaid position was reiterated by Hon'ble Supreme Court in the case of ***Chellammal and Another v. State reported as 2025 SCC Online SC 870***. The relevant extract of the judgment is as under: -

> *"26. On consideration of the precedents and based on a comparative study of Section 360, Cr. P.C. and subsection (1) of Section 4 of the Probation Act, what is revealed is that the latter*

is wider and expansive in its coverage than the former. Inter alia, while Section 360 permits release of an offender, more twenty-one years old, on probation when he is sentenced to imprisonment for less than seven years or fine, Section 4 of the Probation Act enables a court to exercise its discretion in any case where the offender is found to have committed an offence such that he is punishable with any sentence other than death or life imprisonment. Additionally, the non-obstante clause in sub-section gives overriding effect to sub-section (1) of Section 4 over any other law for the time being in force. Also, it is noteworthy that Section 361, Cr. P.C. itself, being a subsequent legislation, engrafts a provision that in any case where the court could have dealt with an accused under the provisions of the Probation Act but has not done so, it shall record in its judgment the special reasons therefor.

27. What logically follows from a conjoint reading of sub-section (1) of Section 4 of the Probation Act and Section 361, Cr. P.C. is that if Section 360, Cr. P.C. were not applicable in a particular case, there is no reason why Section 4 of the Probation Act would not be attracted.

28. Summing up the legal position, it can be said that while an offender cannot seek an order for grant of probation as a matter of right but having noticed the object that the statutory

provisions seek to achieve by grant of probation and the several decisions of this Court on the point of applicability of Section 4 of the Probation Act, we hold that, unless applicability is excluded, in a case where the circumstances stated in subsection (1) of Section 4 of the Probation Act are attracted, the court has no discretion to omit from its consideration release of the offender on probation; on the contrary, a mandatory duty is cast upon the court to consider whether the case before it warrants releasing the offender upon fulfilment of the stated circumstances. The question of grant of probation could be decided either way. In the event, the court in its discretion decides to extend the benefit of probation, it may upon considering the report of the probation officer impose such conditions as deemed just and proper. However, if the answer be in the negative, it would only be just and proper for the court to record the reasons therefor."

31. In the present case, there is nothing on record to reflect that the petitioner possesses a criminal bent of mind or that his conduct poses any threat to society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against him.

32. The imposition of punishment is a refined judicial function that demands a careful harmonization of its underlying purposes namely, retribution, deterrence, and reformation. This balance must reflect not only

the reasoning of the Court but also the ethical standards and social context in which justice is administered. As societal values and circumstances evolve, the prominence accorded to each of these aims necessarily varies, requiring the Court to adapt its emphasis in response to the changing demands of justice. The aforesaid principle found early articulation in the writings of Justice Caldwell, who, in his authoritative work "Criminology," observed that:

> *"If the infliction of pain is to have its greatest effect upon the behavior of a person, it must follow soon after the act for which it is given. But punishment always takes place weeks or even months after the offense has been committed, since the offender must first be apprehended, tried, and convicted. Such delay tends to disconnect the punishment from the offense in the mind of the offender, and it may well be considered as merely another painful experience in an unjust world."*

33. Moreover, Italian criminologist and jurist Cesare Beccaria, in his seminal treatise "On Crimes and Punishments," propounded the doctrine of penal parsimony, emphasizing that the justification of any criminal justice system rests upon its capacity to inflict the least possible evil necessary to achieve its ends. The underlying premise is that punishment, being in itself a necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity. The imposition of suffering or restriction upon an offender cannot extend beyond what is indispensable for the preservation of social order.

34. While ‘retributive’ object of sentencing is seen regressive, in modern day sentencing jurisprudence for its focus on punishing proportionally for the harm done and caters to the negative senses of spite and anger against a wrongful act, the rehabilitative/reformative approach examines the circumstances surrounding the offender on social, economical, physical and psychological level so as to reintegrate the offender in the social mainstream. The law extends the benefit of good and perceives a probability and possibility of reform. It aims at capitalising a perceived social liability. The expectation of law is based on the surrounding circumstances to distinguish between a ‘criminal’ and an ‘offender’.

35. While the pre-requisites of crime do not distinguish two persons, on the legal scale, this aspect is significant for sentencing. A mere involvement of a person in crime may not necessarily mark a person as a ‘criminal.’ ‘Criminality’ in mind and action has to be determined from the totality of circumstances including the mode and manner in committing an offence, the conduct pre and post the offence, the criminal antecedents, nature of involvement, influence of peers etc. and not just from an isolatory consideration of commission of an offence. A Court of law would not assume every offender to be beyond reform and differentiate in punishment on considering whether the offences arise due to human error or that stem from actions propelled by *mens rea*.

36. The case in hand is yet another where interest of justice would warrant a reformative approach in precedence to a punitive or retributive

approach. It is not the function of the judges to seek the transformation of human nature itself, but rather to shape the framework within which individuals perceive that adherence to the law aligns with their own best interests.

37. Taking into consideration the facts and circumstances of the present case and the mitigating circumstances enumerated above, I deem it appropriate to direct release of the petitioner on probation on furnishing an undertaking of keeping peace and good behaviour for two years to the satisfaction of the Judicial Magistrate. The petitioner shall also remain under the supervision of the concerned probation officer during the aforesaid period. In the event of the petitioner failing to comply with the said direction or committing breach of the undertaking given by him, he shall be called upon to undergo the remaining period of sentence imposed upon him in the present case.

38. As Montesquieu observed, the certainty of mild yet consistent punishment serves as a far greater deterrent than the transient severity of harsh sentences. Guided by this enduring principle, it is directed that the petitioner shall also be liable to perform community service of plantation of 50 indigenous trees by approaching the Divisional Forest Officer, Ludhiana and for their maintenance for a period of 05 years.

39. In the event of the petitioner not being in the capacity to deposit the cost of maintenance for a period of 05 years, he shall offer his services to the department of forests to set off the said cost as per the wages of an

unskilled workers equal to adequate labour men hours for the equivalent period as prescribed by the concerned Deputy Commissioner.

40. The instant petition is ***partly allowed***.

41. Pending misc. application(s), if any, shall also stand(s) disposed of accordingly.

14.11.2025. **(VINOD S. BHARDWAJ)**
Mangal Singh **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No