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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRR-912-2018 (O&M)
Date of Decision: 07.04.2025**

GOPI RAM

...PETITIONER

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rose Gupta, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavata, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

1. This revision petition has been filed against the judgment dated 26.02.2018 passed by learned Additional Sessions Judge, Jhajjar vide which judgment of conviction and order on quantum of sentence dated 06.12.2016/07.12.2016 passed by learned Judicial Magistrate Ist Class, Bahadurgarh have been upheld, whereby the petitioner has been convicted and sentenced as under:

Offence under Sections	Sentence	Fine	Sentence in default of payment of fine
279 of IPC	Rigorous imprisonment for three months	Rs. 300/-	SI for One month
304-A of Indian Penal Code	Rigorous imprisonment for 01 year	Rs. 500/-	Simple imprisonment for two months

Both sentences were ordered to run concurrently.

2. Briefly, the case of the prosecution is that on 26.09.2009 information was received from General Hospital, Bahadurgarh that Kavita W/o Yogesh has been admitted in General Hospital, Bahadurgarh in dead condition.

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On which ASI Ramesh Kumar alongwith Constable Jai Kanwar reached General Hospital, Bahadurgarh and got recorded the statement of Yogesh Kumar to the effect that on 26.09.2009 he alongwith his wife Kavita had came to Bahadurgarh due to some work on his motorcycle bearing no. DL-9SQ-3108 and at about 1:30 pm when he was coming back from Bahadugarh to Badli and when he reached near Railway Chowk, a bus of Haryana Roadways came without giving any horn and being driven in a very high speed and in a rash and negligent manner and hit his motorcycle from the back side due to which he and his wife Kavita fell on the road alongwith motorcycle. Thereafter, front tyre of bus came in contact with his wife and when he was taking care of his wife the driver of the bus ran away from the spot along with his bus. He further disclosed the registration number of the alleged bus as HR-39A-8497. Thereafter, he had taken his wife to Government Hospital, Bahadurgarh where she was declared as dead. On the basis of aforesaid allegations, FIR(supra) was registered.

3. After assessing the material available on record, the learned trial Court convicted and sentenced the petitioner vide judgment of conviction and order of sentence dated 06.12.2016/07.12.2016. Aggrieved by the same, the petitioner preferred an appeal before the learned lower Appellate Court, which was dismissed vide judgment dated 26.02.2018.

4. Learned counsel for the petitioner submits that learned Courts below have gravely erred in convicting the petitioner under Sections 304-A and 279 of Indian Penal Code as there are contradictions and discrepancies in the testimonies of material witnesses. Learned counsel further submits that the petitioner is not involved in any other case and prayer is made that petitioner may be released on probation of good conduct.

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5. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the petitioner and submits that the petitioner has been convicted by the learned trial Court based on correct appreciation of the facts and law. Moreover, the conviction has been upheld by the learned lower Appellate Court, as such interference by this Court is not warranted.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that FIR was registered on 26.09.2009 and the petitioner has been suffering the agony of trial since the last more than 15 years and the petitioner is 58 years of age respectively.

7. Sections 3 and 4 of the Probation of Offenders Act, 1958 (hereinafter to be referred to as 'the Act') empowers the Courts to release the convicts if deemed appropriate in view of circumstances of the case. Similarly, Sections 360 and 361 of the Cr.P.C also allows the Courts to release convicts on probation for good conduct in the cases and circumstances mentioned therein. A two Judge Bench of the Hon'ble Supreme Court in ***Som Dutt and others Vs. State of Himachal Pradesh (2022) 6 SCC 722*** speaking through Justice Bela M. Trivedi, has held as under:-

“6. ...having regard to the fact there are no criminal antecedents against the petitioners, the court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the petitioners, it is directed that the petitioners shall be released on probation of good conduct.....”

A two Judge Bench of the Hon'ble Supreme Court in ***Lakhvir Singh Vs. State of Punjab (2021) 2 SCC 763*** speaking through Justice Sanjay Kishan Kaul, has held as under:-

“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of



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offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

Further still, a two Judge Bench of the Hon’ble Supreme Court in ***Lakahnlal @ Lakahn Singh vs. State of Madhya Pradesh (2021) 6 SCC 100***

has opined as follows:

“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 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”

8. The Hon'ble Supreme Court in ***Bishnu Deo Shah Vs. State of West Banal AIR 1979 SC 964*** has laid down that it is obligatory on the part of the Court to deal with a convict under the provisions of Section 360 of the Cr.P.C., if he is not convicted for an offence punishable with death penalty or imprisonment for life and additionally, if he is not a previous convict. The overarching object of the provision contained in Section 4 and 6 of the Act and Section 360 and 361 of Cr.P.C. is to provide an opportunity to the first time offenders to reform and not expose them in association with the hardened and habitual criminal inmates incarcerated in the judicial custody.

9. In view of the facts and circumstances of the case, the instant petition is disposed of, in the following terms:-

1. The judgment of conviction dated 26.02.2018 passed by the learned Additional Sessions Judge, Jhajjar, is upheld.



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2. The order of sentence dated 07.12.2016 passed by the learned Judicial Magistrate Ist Class, Bahadurgarh is modified to the extent of granting the concession of probation to the petitioner for good conduct.
3. The petitioner shall be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- with a surety for the same amount, after furnishing an undertaking to keep the peace and good behaviour for a period of one year to the satisfaction of the concerned trial Court, within four weeks.
4. The petitioner shall remain under the supervision of the concerned Probation Officer during the aforesaid period. If the petitioner fails to comply with the said directions or commit breach of the undertaking rendered by him, he shall be called upon to undergo the sentence imposed upon him by the learned trial Court.
10. Needless to say that in view of the Section 12 of Probation of Offenders Act, judgment dated 26.02.2018 passed by learned Additional Sessions Judge, Jhajjar and judgment of conviction and order on quantum of sentence dated 06.12.2016/07.12.2016 passed by learned Judicial Magistrate Ist Class, Bahadurgarh, shall not be a hurdle to petitioner, in any way, to get retiral benefits and other service benefits to which he is entitled to.

(HARPREET SINGH BRAR)
JUDGE

07.04.2025

Ajay Goswami

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*