

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 48 of 2013

Date of Decision: 06.10.2026

Sohan Lal

...Petitioner

Versus

State of Himachal Pradesh

...Respondent/State

Coram

Hon'ble Mr Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting?¹

For the Petitioner : Ms. Devyani Sharma, Senior Advocate, with Mr. Anirudh Sharma, Advocate.

For the Respondent/State : Mr. Raj Pal Thakur, Additional Advocate General.

Chirag Bhanu Singh, Judge (Oral)

By way of the present revision, the petitioner has assailed his conviction and sentence passed by the learned Judicial Magistrate First Class, Court No. 2, Nalagarh, District Solan, in Cr. Case No. 1/2 of 09/2007, vide judgment of conviction and order of sentence dated 20.09.2010 and 21.09.2010, respectively, whereby the petitioner was convicted for the commission of offences punishable under Sections 279,

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

337, 338 and 304-A of the Indian Penal Code (IPC), which was affirmed by the learned Appellate Court on 23.01.2013 in Criminal Appeal No. 19-S/10 of 2010. He was sentenced as under:-

Sr. No.	The offence for which the accused was awarded	Substantive Sentence imposed	Fine imposed	In default of payment of fine, Simple imprisonment imposed
1.	Section 279 of IPC	Rigorous Imprisonment for three months	Rs.5,00/-	Simple Imprisonment for ten days
2.	Section 337 of IPC	Rigorous Imprisonment for three months	Rs.5,00/-	Simple Imprisonment for ten days
3.	Section 338 of IPC	Rigorous Imprisonment for one year	Rs.5,00/-	Simple Imprisonment for ten days
4.	Section 304-A of IPC	Rigorous Imprisonment for one year	Rs.1,000/-	Simple Imprisonment for fifteen days
All the sentences were ordered to run concurrently				

2. The case set up by the prosecution, in brief, was that on the fateful day, i.e. on 19.05.2006, at about 2:15 P.M., while the petitioner/accused was driving his three-wheeler from Baddi towards Nalagarh, he collided with a bus bearing registration No. HP-12-A-6719. The accident was attributed to the rash and negligent driving of the petitioner/accused. The petitioner/accused is alleged to have suddenly turned the three-

wheeler towards the right-hand side, as a result of which it dashed against the bus.

3. The complaint came to be registered on the basis of the statement of the complainant Jagdev Chand (Ex. PW-6/A), the conductor of the ill-fated bus. On the basis of the same, FIR (Ex. PW-20/A) came to be registered.

4. The accident resulted in the death of Usha Devi and Bachni Devi and had also caused simple and grievous injuries to the other occupants of the three-wheeler and even the bus.

5. After the filing of the challan, the prosecution examined as many as 23 witnesses to bring home the guilt of the petitioner/accused.

6. When confronted with the incriminating evidence led on record, the petitioner/accused denied the prosecution version in toto. The streak of defence which emerged was that interested witnesses had only been examined and that he had been falsely implicated.

7. The learned trial Court, after due deliberations, convicted and sentenced the petitioner/accused for the aforesaid sections reflected hereinabove (supra). The learned First

Appellate Court also duly affirmed the same and hence the present revision.

8. I have heard the learned counsel for the parties and gone through the records of the case.

9. The learned counsel for the petitioner has urged with vehemence that the accident had not taken place because of the rash and negligent driving of the petitioner, but it was rather the fault of the bus driver. The conductor of the bus, Jagdev Chand (PW-6), who was the complainant, had taken undue advantage of the grievous injuries sustained by the petitioner/accused in the accident. All the witnesses examined were interested witnesses, and no independent witnesses had been examined by the prosecution.

10. *Per contra*, Mr. Raj Pal Thakur, learned Additional Advocate General, while supporting the findings recorded by both the learned Courts below, has contended that the case of the prosecution has been established beyond reasonable doubt and both the learned Courts below have come to the conclusion after marshalling the facts in the right perspective. There is no perversity in the orders passed by the learned Courts below and,

as such, while exercising revisional powers, this Court would not upset the well-reasoned findings recorded by the learned Courts below.

11. Undoubtedly, while exercising revisional jurisdiction, the power of this Court is circumscribed by the settled judicial dicta that the said power can be exercised only if a grave perversity is noticed in the findings recorded by the learned Courts below.

12. The reappraisal of the evidence and the record however, clearly goes to show that undisputedly the petitioner/accused was driving the three-wheeler at the relevant time.

13. The record is suggestive of the fact that the petitioner/accused had raised a defence that the accident had apparently taken place due to a mechanical defect which had cropped up, as the steering wheel of the three-wheeler had jammed. However, the testimony of PW-17 Rajinder Kumar, who had mechanically examined both the three-wheeler and the bus, shows to the contrary. He had found no mechanical defect in the three-wheeler.

14. No doubt Ashok Kumar (PW-2), Harbanso (PW-3) and Amarjeet Kaur (PW-4) had resiled from their earlier statements and had turned hostile. Nonetheless, the testimonies of the complainant PW-6, Jagdev Chand, and the two passengers travelling in the bus, who had been examined as Gurdev Singh (PW-8), Neelam (PW-9) and Satpal (PW-14), clearly go to show that the bus in question was being driven on its left side and the three-wheeler had come from the wrong direction and hit the bus. One of the witnesses, Jagdev Chand (PW-6), had stated that the three-wheeler was trying to overtake a truck and in the process, he had come to the extreme right side of the road and hit the bus coming from the opposite direction.

15. The perusal of the site plan (Ex.PW-22/A), also clearly shows that there was about 15 feet of space on the left-hand side of the three-wheeler. It thus corroborates the version of the witnesses, more particularly Jagdev Chand (PW-6), Gurdev Singh (PW-8), and Neelam (PW-9). Gurdev Singh (PW-8) and Neelam (PW-9) happened to be the passengers travelling in the bus at the relevant time. Merely because they were travelling in the ill-fated bus, it cannot be said that they were in

any way interested witnesses. They were just travelling in the bus at the relevant time and had actually deposed as to what they had witnessed at the spot. They neither had any axe to grind with the accused, nor had any reason to depose in favour of the bus driver falsely.

16. The act of the petitioner/accused in driving the three-wheeler and taking a turn towards the right, whether to overtake or otherwise, itself exhibits a wanton Act, rash and highly negligent. While driving on a highway, it was not expected of the petitioner/accused to have swerved to the right, resulting in loss of life. It was the bounden duty of the driver to have understood the consequences of his swerving to the right, either while overtaking or otherwise, oblivious of the vehicles coming from the opposite direction and that too on a busy highway.

17. Having reconsidered the evidence and the judgments delivered by the learned Courts below, this Court is of the considered opinion that no fault can be found with the findings recorded by both the learned Courts.

18. Faced with the aforesaid situation, the learned counsel for the petitioner would contend that the accident had taken place about 20 years back, in which, the petitioner/accused had unfortunately lost not only his daughter, but it had also resulted in his son's leg being amputated (incurring 85% disability). He himself was critically injured and remained admitted in the PGI for a sufficiently long period. It would, therefore, be in the interest of justice and fair play that the benefit of probation be extended to him.

19. A report in this regard had been sought from the District Welfare-cum-Probation Officer, Solan.

20. From the perusal of the report submitted by the Probation Officer, Solan, it is clear that the petitioner/accused is a calm and cool-tempered person and spends his time at the local temple. He used to drive a loading auto earlier and, presently, his financial condition is not good. No previous criminal antecedents have been reported. As per the Probation Officer, the entire family of the petitioner/accused had been seriously injured in the accident. It took him almost three years to recover from it completely. In the accident, he had lost his

daughter and his son had incurred a disability of 85%. He is stated to be a hardworking person and his family is reported to have never indulged in any kind of bad deeds. He is not a habitual offender.

21. After having heard the learned counsel for the petitioner and going through the report of the Probation Officer, this Court is of the considered opinion that while affirming the findings of the learned Courts below, it would indeed be in the interest of justice and fair play that the benefit of probation is extended to the petitioner, keeping in view the peculiar facts and circumstances of this case narrated hereinabove.

22. In this behalf, support can safely be drawn from a judgment of the Hon'ble Supreme Court titled **State of Karnataka v. Mudappa**, [(1999) 5 SCC 732], wherein the Hon'ble Supreme Court categorically held that there was no statutory bar for the application of the Probation of Offenders Act to an offence where the maximum punishment is neither death nor imprisonment for life.

23. The aforesaid observations were made by the Hon'ble Supreme Court while granting the benefit of probation in a case relating to Section 304 Part II of the IPC.

24. The consideration for the grant of probation has also been lately clarified by the Hon'ble Supreme Court in a recent judgment titled **Chellammal and Anr. v. State, represented by the Inspector of Police, [2025 SCC OnLine SC 870]**.

25. Thus, keeping in view the peculiar facts and circumstances of the case narrated hereinabove, the benefit of probation is liable to be extended to the petitioner and it is ordered accordingly.

26. While affirming the conviction and sentence recorded by the learned Courts below, the petitioner is however ordered to be released on probation under Section 4 of the Probation of Offenders Act, 1958, on his furnishing personal bonds in the sum of ₹50,000/- with one surety of the like amount to maintain peace and be of good behaviour and not indulge in the same or similar acts for a period of two years and undertake to appear and receive sentence when called upon to

do so during the said period, before the learned trial Court within a period of four weeks from the passing of this order.

27. The revision petition stands disposed of in the aforesaid terms.

28. Pending miscellaneous application(s), if any, also stands disposed of accordingly.

(Chirag Bhanu Singh)
Judge

06th October, 2026

(Shamsh Tabrez)