

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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2025:PHHC:175748



CRR-2292-2025 (O&M)
Date of decision: 16.12.2025.

GAGANDEEP KUMAR

...Petitioner(s)

VERSUS

STATE OF PUNJAB

...Respondent(s)

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

Present :- Mrs. Amarjeet Kaur, mother of the petitioner in person

VINOD S. BHARDWAJ, J. (Oral)

1. The instant criminal revision has been preferred against the judgment of conviction and order of sentence dated 06.07.2019 passed by the Judicial Magistrate 1st Class, Moga, whereby the revisionist-petitioner had been convicted for commission of offences punishable under Sections 279, 304-A, 338 and 427 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") in case bearing FIR No. 69 dated 05.05.2016 registered under Sections 279, 304-A, 338, 427 IPC at Police Station Dharamkot, Moga as well as judgment dated 21.08.2025 passed by the learned Additional Sessions Judge, Moga vide which appeal filed by the revisionist-petitioner has been dismissed. The revisionist-petitioner has been sentenced as under:-

Sr. No.	Offence U/S	Sentence	Fine	In default of payment of fine
1.	279 IPC	RI for six months	1000/-	RI for one month
2.	304A IPC	RI for one year	1000/-	RI for one month
3.	338 IPC	RI for one year	-----	----
4.	427 IPC	RI for six months	-----	-----

All the sentences were ordered to run concurrently.

2. The aforesaid case had been registered at the instance of Lakhvir Kaur that on 04.05.2016 at about 9:30 pm, within the area of Police Station Dharamkot, District Moga (near Grain Market, Jalalabad East), petitioner while driving Car make Swift bearing Registration No. HR-26-AT-3821 in a rash and negligent manner on a public way hit Ranjit Singh, who was changing the punctured tyre of Scorpio bearing Registration No. DL-8CL-0909 owned by Rachhpal Singh. As a result of collision, Ranjit Singh succumbed to injuries and Rachhpal Singh also received grievous injuries. The Scorpio car was also damaged due to the collision.

3. On the basis of aforesaid statement, FIR in the present case was registered and investigation was conducted. During the course of investigation, IO recorded the statements of witnesses under Section 161, Cr.P.C. Petitioner- Accused was arrested. After completion of investigation and other necessary formalities, challan against the accused was prepared and presented against the accused.

4. On presentation of challan, copies of documents were supplied to accused free of costs as per Section 207, Cr.P.C.

5. Finding that a prima facie case is made out, the petitioner was charge-sheeted for the commission of offences punishable under Sections 279/304-A/338/427 of the Indian Penal Code, 1860 and the contents of the same were read over and explained to the accused, to which he pleaded not guilty and claimed trial.

6. In order to substantiate its case, the prosecution examined the following nine witnesses:

PW-1	Om Prakash, Retired Mechanic, Punjab Roadways, Moga
PW-2	Malkit Singh, Photographer
PW-3	Dr. Rajesh Mittal, Medical Officer, Civil Hospital, Moga
PW-4	Lakhvir Kaur (Complainant)
PW-5	Rashpal Singh (Injured)
PW-6	ASI Harnek Singh
PW-7	ASI Surinder Singh

7. Prosecution failed to examine its remaining witnesses despite availing several effective opportunities. Resultantly, remaining prosecution evidence was closed by order.

8. 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 its entirety, describing the prosecution case and evidence as false and fabricated, and asserted his innocence. He specifically pleaded that

he was falsely implicated in the present case on asking of Dimple son of Jagdarshan Kaur, Local Congress leader of Dharamkot, District Moga.

9. After considering the arguments advanced by the counsels of the parties, the testimonies of witnesses, and the evidence placed on record, the learned Judicial Magistrate 1st Class, Moga, vide judgment and order of quantum of sentence dated 06.07.2019, held the petitioner guilty of offences punishable under Sections 279, 304-A, 338 and 427 of the Indian Penal Code, 1860.

10. Aggrieved by the aforesaid judgment of conviction and order of sentence, the petitioner preferred Criminal Appeal No. 158 of 2019 before the Court of the learned Additional Sessions Judge, Moga. However, vide judgment dated 21.08.2025, the learned Additional Sessions Judge, Moga, dismissed the aforesaid appeal and consequently affirmed the judgment of conviction and order of quantum of sentence dated 06.07.2019 passed by the learned Judicial Magistrate 1st Class, Moga. Hence, aggrieved by the said judgment of conviction and order of quantum of sentence dated 06.07.2019 and judgment dated 21.08.2025, the present revision petition has been preferred.

11. Lawyers are abstaining from work on account of a call from the High Court Bar Association.

12. Amarjeet Kaur, Mother of Petitioner in person contends that she does not press the present revision petition on merits and would confine the challenge only to the quantum of punishment awarded to the petitioner. The following mitigating circumstances have been pointed out by the learned counsel for the petitioner:

- (i) That the unfortunate incident in question occurred in May 2016, and 9 years have since elapsed. At the time of the incident, the petitioner was approximately 27 years old and prior to the above accident or since then he has not been involved in any other offence or criminal activity.
- (ii) That the incident in question was unfortunate and purely an accidental occurrence, having taken place without any intention or overt act on the part of the petitioner.
- (iii) That the petitioner has endured the ordeal of a prolonged criminal trial spanning over a period of nine years.
- (iv) The incarceration of the petitioner is causing severe hardship to the family of petitioner.

13. ASI Deepak Kumar, Pairvi Officer, on the other hand, contends that both the learned Courts below have examined the evidence brought on record and concurrently recorded a finding of conviction against the petitioner. It has been further submitted that in a revisional jurisdiction, neither new line of defence can be adopted nor any re-appreciation of the evidence can be undertaken. The learned State counsel submits that there is no illegality or perversity that has been pointed out by the petitioner in the instant case and, hence, there is no occasion that would call for upsetting the findings recorded or the sentence awarded and affirmed by both the learned Courts below.

14. I have perused the case file and gone through the impugned judgments.

15. Since the petitioner has given up the challenge to the judgment

of conviction on merits, hence, the said issues are not being gone into at this stage. The discussion is thus restricted solely to the issue of sentencing and quantum of punishment.

16. The purpose of sentencing being both deterrent as well as reformatory, hence, while sentencing of an accused, factors such as psychological and sociological circumstances of an accused; the gravity, nature and manner of committing the offence; the consequences, the social reaction of the offence; the antecedents and tendencies of an accused should be taken into consideration.

17. 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 the society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against the revisionist-petitioner.

18. 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.”

19. 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.

20. 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, economic, 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’.

21. 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*.

22. Moreover, an accident does not fall under the category of a heinous offence as it generally does not fulfill the ingredients of heinous offences. The reference of serious offences is qualified to those involving mental depravity. Such offences are usually in the context of criminal acts showing profound disregard for life and law or having social impact. As per Black’s Law Dictionary, 8th Edition, ‘depraved’ as an adj. of a person or crime means corrupt or perverted or morally horrendous.

23. The instant case at hand is yet another example where interest of justice would warrant a reformatory 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.

24. In **Deo Narain Mandal v. State of UP** reported as (2004) 7 SCC 257, a three Judge bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two Judge Bench of the Hon'ble Supreme Court in **Ravada Sasikala v. State of AP** reported as AIR 2017 SC 1166, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused. In order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformative.

25. Adverting to the facts of the present case and the mitigating

circumstances as pointed out by counsel for the petitioner, it is established that petitioner is a first-time offender with no criminal antecedents. He has undisputedly faced agony of criminal trial for 9 years. Besides, he has already undergone an actual custody of nearly 3 months and 24 days out of the total sentence of 01 years.

26. Taking into consideration the aforesaid facts and circumstances, the criminal revision petition is partly allowed. While the judgment of conviction dated 06.07.2019, passed by the Judicial Magistrate First Class, Moga, and judgment dated 21.08.2025, passed by the Additional Sessions Judge, Moga, dismissing the appeal preferred by the petitioner are affirmed, however, the order of sentence dated 06.07.2019 is modified and the sentence awarded to the petitioner is reduced to the period already undergone by him. However, the sentence regarding fine is maintained. The petitioner be released forthwith, if not required in any other case.

27. Pending criminal misc. application(s), if any, stand disposed of.

December 16, 2025.

raj arora

(VINOD S. BHARDWAJ)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No