



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

CRR No.1370 of 2008 (O&M)

Reserved on: 13.01.2026

Pronounced on: 30.01.2026

Ashok Kumar

.....Petitioner

Versus

State of Haryana and another

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Deepak Sharma, Legal Aid Counsel for the petitioner.

Mr. Parveen Kumar Aggarwal, Addl. A.G., Haryana.

Ms. Mansi, Advocate for

Mr. Bhisham Kumar Majoka, Advocate for respondent No.2.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 279, 337 and 338 of Indian Penal Code, the FIR No.68 dated 02.02.2004 was lodged in Police Station City Gurgaon. Once the FIR was lodged, the investigation was taken up by the police, and as an outcome of abovesaid investigation, the petitioner was sent to the Court of learned Special Judicial Magistrate Ist Class Gurgaon, hereinafter being referred to as 'trial Court', to face trial for the commission of abovementioned offence.

2. The petitioner participated in the abovementioned trial, which by virtue of judgment dated 06.11.2006 culminated into his conviction. Thus by virtue on order on quantum of sentence, dated 06.11.2006, the petitioner was sentenced as under:-



Under Sections	Sentence	Fine	In default of payment of fine
279 and 338 IPC	Simple imprisonment for 3 months		

3. All the sentences were ordered to run concurrently.
4. Aggrieved of the abovementioned judgment of conviction and order of sentence, the petitioner preferred an appeal in the Court of Sessions. The abovementioned appeal has been decided by the Court of learned Additional Sessions Judge, Fast Track Court, Gurgaon, hereinafter being referred to as ‘Appellate Court’. The appeal preferred by the petitioner did not find favour in the Appellate Court, and the same had been dismissed by virtue of judgment dated 25.04.2008.
5. Feeling aggrieved of the judgment of conviction and order of sentence dated 06.11.2006, passed by the learned trial Court, and also of the judgment dated 25.04.2008 passed by the learned Appellate Court, the present revision petition has been preferred by the petitioner.
6. In nut-shell, the facts as contained in the record are that the FIR of this case came into being on the basis of statement of complainant ‘Ashwani Kumar’ hereinafter being referred to as ‘complainant’ only. It was stated by the above-named complainant that on 02.02.2004 when he was going on his motor cycle bearing registration No.HR-26U-3284 to his shop from his residence, and when he reached near Jain Temple, the offending car bearing registration No.HR-26S-1400 came from Bhargav Palace side and that it was



being driven at a very high speed and also in a rash and negligent manner. As per complainant, the car hit his motor cycle on front side and he fell down & suffered injuries.

7. It is the case of the prosecution that on the basis of abovementioned statement, formal FIR of this case was lodged and the investigation taken up. As per prosecution, during the course of investigation, the Investigating Officer inspected the spot, prepared rough site plan of the place of occurrence and completed other usual formalities of investigation, including the arrest of the accused. Thereafter, the final report under Section 173 of Cr.P.C. was filed.

8. To discharge its burden with regard to charge against the petitioner, the prosecution in the instant case had relied upon documentary as well as oral evidence. The documents relied upon, and marked with exhibits, by the prosecution were as under:-

Ex.PW1/B - Statement of complainant

Ex.PW1/D - Rough site plan

Ex.PW1/C - Furd vide which accused and his vehicle was taken into possession

Ex.PW1/S Report for registration of FIR

Ex.PC/A Ruqa

Ex.PW5/A - Receipt of police report

Ex.PW9/A - Medical reports prepared by Dr. Shailza
P and Bhola Radiologist
PW8/B

Ex.PW8/C - X-ray films
and PW8/D

Ex.PW9/B - Superdari



9. To provide support and corroboration to the above-mentioned documentary evidence, as many as nine witnesses had been examined by the prosecution. Those witnesses were:-

- | | |
|------|--|
| PW-1 | - Govind Ballabh (recorded the statement of complainant) |
| PW-2 | - C. Balwan Singh |
| PW-3 | - Dr. Arun Vashishta who treated the injured |
| PW-4 | - Sri Devi SHO Police Station DLF Gurgaon |
| PW-5 | - ASI Devender Singh, who registered the FIR |
| PW-6 | - Ashwani Kumar Jain (complainant) |
| PW-7 | - Manoj Kumar (eye-witness of occurrence) |
| PW-8 | - Dr. Shailza Bhola, Radiologist |
| PW-9 | - Hari Chand (owner of offending vehicle) |

10. Once the prosecution evidence was completed, the learned trial Court completed the essential formalities as enshrined under Section 313 Cr.P.C.

11. Once the evidence was complete, the learned trial Court gave an opportunity to the petitioner as well as prosecution to address arguments, and thereafter, returned the judgment of conviction against the petitioner, which was been upheld by the learned Appellate Court.

12. The instant petition has been filed by the petitioner by alleging that the petitioner was wrongly prosecuted and held guilty, despite the fact that there was no fault on his part. According to petitioner, the learned trial Court,



vis-à-vis the learned Appellate Court, failed to appreciate the evidence available on record, which was not sufficient and good enough to meet the standard prescribed under the law, for proving a charge in a criminal case. As per petitioner, merely on the basis of conjectures and surmises, the learned trial Court, vis-à-vis the learned Appellate Court have observed that the charge against him with regard to commission of aforesaid offences had been proved.

13. It has been further pleaded by the petitioner that the evidence adduced by the prosecution was deficient and inconsistent, and that on the basis of abovementioned evidence, the finding of conviction could not have been returned, but the learned trial Court on the basis of presumptions and assumptions believed the evidence adduced by the prosecution and unfortunately the abovesaid erroneous view of learned trial Court has been affirmed by the learned Appellate Court. The petitioner has sought for intervention of this Court in both the judgments.

14. Heard.

15. During the course of arguments, the learned counsel for the petitioner has come forward with a plea that the petitioner is already suffering agony of facing trial in a criminal case for the last more than 21 years (approximately 22 years), and that a compromise has been entered into between the parties and the victim has accepted the claim of Rs.3,00,000/-.

16. The learned counsel for the petitioner has also argued that in view of abovementioned developments in the instant revision petition, the petitioner is not inclined to challenge the finding of conviction recorded by the learned trial Court, duly affirmed by the learned Appellate Court. The learned counsel for the petitioner has categorically contended that at this stage, by virtue of



present petition, the petitioner is only challenging the order on the quantum of sentence. It has been further contended by learned counsel for the petitioner that since the petitioner is around 56 years old and matter was compromised between the parties, and he has clean record, he craves for the benefit of probation/admonition.

17. As per learned counsel for the petitioner, the petitioner is not a habitual offender and that instant prosecution is the only prosecution faced by the petitioner in his entire life. According to learned counsel for the petitioner, the instant case is a fit case, wherein in view of the nature of offence committed by the petitioner, he is entitled for the benefit of probation/admonition, *firstly*, because the victim accepted the claim of the petitioner of Rs.3,00,000/-, *secondly*, because of his conduct subsequent to the present offence, as he has not indulged in any kind of criminal activity, and *thirdly*, because of the nature of offence committed by the petitioner as there was no *mens rea* behind the commission of offence. In support of his arguments, the learned counsel for the petitioner has placed reliance upon the principles of law laid down by this Court in CRR-2697-2025 titled as ‘Lakshay Jain V/s State of Punjab & Anr.’ and in CRR-1683-2002 titled as ‘Sardool Singh V/s State of Punjab’.

18. The abovementioned arguments have been controverted by the learned State Counsel. According to learned State Counsel, in the present case the allegations against the petitioner are with regard to commission of offence punishable under Section 279/338 of IPC, and in the above mentioned accident victim has suffered fracture in his advance age due to rash and negligent driving of the petitioner. The learned State counsel has submitted that no



amount of compensation can adequately redress the damage caused of public safety or the infliction of severe bodily harm. According to learned State counsel, the sentence awarded to the petitioner, i.e. imprisonment for a period of 3 months, is already on lower side, and that the petitioner is liable to undergo the sentence of imprisonment awarded by the learned trial Court.

19. The learned State counsel has further contended that gravity of offence committed by the petitioner renders him ineligible for any lenient view. According to learned State counsel, the petitioner is not entitled for the benefit of probation/admonition. In support of his arguments, the learned State counsel has placed relied upon the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'State of Punjab V/s Balwinder Singh & Ors.' 2012(2) SCC 182, and by this Court in 'Shinderpal Singh V/s U.T. of Chandigarh' 2025 SCC OnLine P&H 17378.

20. The arguments addressed on behalf of both the parties have been duly considered and the record has been perused carefully.

21. As far as the present revision petition is concerned, there are two points, which are supposed to be determined by this Court:

- i) Whether the finding recorded by the learned trial Court with regard to proof of charge against the petitioner, needs interference and indulgence of revisional jurisdiction of this Court.
- ii) If first point is answered against the petitioner, whether the petitioner is entitled for the benefit of probation/admonition.

POINT NO.I

22. As far as this point is concerned, at the threshold it is relevant to mention here that the findings recorded by the learned trial Court with regard



to judgment of conviction, have not been challenged by the learned counsel for the petitioner during the course of arguments. Otherwise also, the record has been perused carefully and a perusal of evidence adduced by the prosecution before the learned trial Court shows that the abovementioned evidence was thoroughly consistent, reliable and good enough to bring home guilt of the petitioner for the commission of offence punishable under Sections 279/338 of IPC.

23. It is also relevant to mention here that the findings recorded by the learned trial Court, vis-à-vis the learned Appellate Court are well-reasoned findings, and thus, it is hereby held that there is no scope for interference or indulgence in the finding recorded by the learned trial Court with regard to conviction of petitioner under Sections 279/338 of IPC, affirmed by the learned Appellate Court.

24. Accordingly, the abovementioned finding is hereby affirmed, and as an outcome of abovementioned finding, the point of determination No.1 framed in this petition is hereby answered against the petitioner.

POINT NO.II

25. With regard to above point of determination, it is relevant to mention here that similar question has been dealt with by this Court in the case of 'Lakshay Jain' (supra). In the abovementioned case, for the commission of offence punishable under Sections 279/304-A of IPC, the petitioner (Lakshay Jain) was sentenced to undergo rigorous imprisonment for a period of two years. However, this Court accorded the benefit of probation to the petitioner in that case.

26. Similarly in the case of 'Sardool Singh' (supra), the benefit of



probation was accorded to an accused, who had faced charge for the commission of offence punishable under Sections 304-A and 279 of IPC, and was sentenced to undergo imprisonment for a period of one year. The abovementioned benefit was given to the accused in the abovementioned case by taking into consideration that he had already faced the agony of trial for a period of 11 years.

27. In another case, i.e. Shinderpal Singh (supra), the similar benefit has been given to an accused against whom charge for the commission of offence punishable under Sections 279/304-A of IPC was proved.

28. In a recently pronounced judgment, i.e. in Criminal Appeal No.2133 of 2025 titled as 'Sanjay Colaro V/s State of Karnataka', the Hon'ble Supreme Court of India extended the benefit of probation to an accused, who was convicted for the commission of offence punishable under Section 279/304-A of IPC.

29. The abovementioned principles of law squarely cover the factual matrix of the present case.

30. As far as the benefit of probation is concerned, the relevant principles have been propounded by the Hon'ble Supreme Court of India in the case of 'Jugal Kishore Prasad v. State of Bihar' (1972) 2 SCC 633. The Hon'ble Supreme Court of India while considering the scope of the Probation Act has held as under: -

“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 socioeconomic 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.”



31. The similar question was considered by the Hon'ble Supreme Court of India in a subsequent judgment, i.e. in the case of 'Chellammal and Another v. State' 2025 SCC Online SC 870. In the abovementioned case, the Hon'ble Supreme Court of India has observed as under: -

“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 subsection 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.

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.

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 fulfillment 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.”

32. Taking into consideration that the facts and circumstances of the present case are squarely covered by the principles of law propounded in the abovementioned cases, it is hereby held that instant case, too, is a fit case, wherein the petitioner, who was 35 years old at the time of accident and having no history of other conviction of similar offence, and also faced agony of trial for the last almost 22 years, is entitled for the benefit of probation/admonition. As an outcome of abovementioned observations, the point of determination No.II framed in this petition is hereby answered accordingly, i.e. in favour of petitioner.

CONCLUSION:

33. As a sequel to abovementioned observations, the plea of the petitioner with regard to benefit of probation deserves to be accepted.



Consequently, by partly accepting the present revision petition, the sentence awarded to the petitioner is hereby modified and the benefit of probation is accorded to the petitioner. He is directed to furnish requisite bonds of good behaviour to the satisfaction of learned Chief Judicial Magistrate Gurugram. Needless the bonds are executed, the petitioner would be released on probation for a period specified by the learned Chief Judicial Magistrate Gurugram. Obvious to say that in case of any offence committed by the petitioner during the period of probation, he shall have to undergo the sentence awarded in this case.

34. The revision petition stands disposed of, accordingly. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

30.01.2026
Manoj Bhutani

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