



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

234

CRR-381-2011 (O&M)
Date of decision: 11.02.2026

Nirmal Singh

...Petitioner(s)

VERSUS

State of Punjab and Another

...Respondent(s)

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

Present :- Ms. Mehak Singh, Advocate for the petitioner(s)
(Legal Aid Counsel).

Mr. Mohit Kapoor, Sr. DAG Punjab.

VINOD S. BHARDWAJ, J. (Oral)

CRM-49560-2011 & CRM-2553-2012

These applications have been filed for impleadment of legal heirs of Nand Kishore i.e. Sunita Devi, wife of Nand Kishore as respondent No.2 and injured person-Vijay Kumar, son of Ram Saran as respondent No.3, respectively, in the main petition.

For the reasons mentioned in the applications, the same are allowed for the purpose of pursuing the instant petition only.

Amended Memo of Parties are taken on record.

Main case

1. The instant criminal revision petition has been preferred against the judgment and order of sentence dated 31.10.2005 passed by the Additional Chief Judicial Magistrate, Kapurthala whereby the revisionist-petitioner had been convicted for commission of offences punishable under Sections 279, 304-A, 337 of the Indian Penal Code, 1860 (hereinafter

referred to as “IPC”) in case bearing FIR No. 60 of 15.06.1998 registered under Sections 279, 337, 338, 304A IPC at Police Station Subhanpur, Kapurthala. The revisionist-petitioner has been sentenced as under:-

Under Section	Sentence
279 I.P.C.	Rigorous imprisonment for 06 months.
337 I.P.C.	Rigorous imprisonment for 06 months.
304-A I.P.C.	Rigorous imprisonment for a period of 02 years and to pay a fine of Rs.2,000/- in case of default thereof, to further undergo RI for a period of 02 months.

All the sentences were ordered to run concurrently.

Further, challenge is also to the judgment dated 21.01.2011 passed by Additional Sessions Judge, Kapurthala whereby conviction was upheld but sentence awarded was modified and reduced to one year instead of two years under Section 304-A , IPC.

2. The matter pertains to the year 2011. On the last date of hearing, there was no representation on behalf of the petitioner. The position remains unchanged today as well. Hence, it is deemed expedient to nominate a Legal Aid Counsel on behalf of the petitioner. Ms. Mehak Singh, Advocate (PH/6412/2025 and Mob. No.77103-30786), who is/are present in the Court, is nominated as a Legal Aid Counsel to assist this Court on behalf of the petitioner.

3. Briefly stated, on 15.06.1998, ASI Ajit Singh, while on patrolling duty at Bus Stand, Subhanpur, recorded the statement of Mandip Singh, a resident of Village Kohara, District Ludhiana, who was working as a driver of Tata-608 bearing registration No. HR-38-4327. On the basis of

his statement, the present case was registered. The complainant stated that on 15.06.1998 at about 4:00 A.M., he left Ludhiana for Radha Soami Dera, Beas, with passengers in the said vehicle, accompanied by his relative Balbir Singh. At Goraya, Nand Kishore joined them, and other passengers, including Vijay Kumar, also boarded the vehicle. At about 7:00 A.M., when they reached a bridge within the limits of Village Ramidi, a tanker bearing registration No. PJP-5599, driven by accused Nirmal Singh in a rash and negligent manner, struck the right side of the Tata-608. As a result, Nand Kishore and Vijay Kumar sustained injuries. Nand Kishore succumbed to head injuries at the spot, while Vijay Kumar was taken to Maharaja Sawan Singh Charitable Hospital, Beas, for treatment. On the basis of statement Ex. PF, *ruqa* Ex. PF/1 was sent for registration of FIR Ex. PF/2. During investigation, the Investigating Officer prepared the inquest report, conducted postmortem of the deceased, prepared the site plan, and took both vehicles into possession. The injured's MLR, photographs of the spot, registration certificates, and driving licences were also taken into custody. Mechanical inspection of the vehicles was conducted and reports were obtained. After completion of investigation, challan was presented against the accused under Sections 279, 337, 338 and 304-A IPC.

4. After completion of the investigation, the final report under Section 173 Cr.P.C. against the petitioner-accused was filed in the Court on 14.07.1998 and documents were supplied to the accused-petitioner free of cost.

5. Finding a prima facie case having been made out, the petitioner was charge-sheeted for the commission of offences punishable under

Sections 279, 304-A, 337 and 338 of the Indian Penal Code, 1860 and the contents of the same were read over the and explained to the accused, to which he pleaded not guilty and claimed trial.

6. In order to substantiate its case, the prosecution examined eleven witnesses and closed the prosecution evidence:

PW-1	Dr. Chaman Lal, who performed the postmortem of the deceased.
PW-2	C. Amrik Singh.
PW-3	Sukhbir Singh, Photographer.
PW-4	HC Hari Parshad.
PW-5	Mandip Singh, complainant.
PW-6	Balbir Singh
PW-7	Vijay Kumar, injured.
PW-8	ASI Ajit Singh.
PW-9	Indu Bala.
PW-10	Rothishi Issac.
PW-11	Bhag Singh.

Learned APP vide his separate statement has closed the evidence on behalf of the prosecution.

7. 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.

8. No defence evidence/witness was produced by the accused

during the phase of his defence evidence.

9. After considering the arguments advanced, the testimonies of witnesses, and the evidence placed on record, the Trial Court, vide judgment dated 31.10.2005 , held the petitioner guilty of offences punishable under Sections 279, 304-A and 337 of the Indian Penal Code, 1860.

10. Aggrieved by the aforesaid judgment of conviction, the petitioner preferred Criminal Appeal No. 103 dated 26.11.2005 before the Court of the Additional Sessions Judge, Kapurthala. Vide judgment dated 21.01.2011, the sentence of two years under Section 304-A of the Indian Penal Code, 1860 was reduced to 01 year, however, the conviction was upheld. Fine already stands paid before the Appellate Court. Hence, the present revision petition.

11. After advancing arguments at some length, learned Legal Aid Counsel for the petitioner submits that, vide order dated 22.02.2011 passed by this Court, the petitioner-revisionist was granted the concession of interim bail. She contends that she would not press the present revision petition on merits and contends that she would confine her challenge only to the quantum of punishment that has been so awarded. The following mitigating circumstances are pointed out by the counsel for the petitioner.

- (i) The incident in question occurred in June-1998, and more than 27 years have since elapsed.
- (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 27 years which in itself has had a considerable deterrent and punitive impact.

- (iv) The petitioner's prolonged incarceration has caused severe hardship to his family
 - (v) The petitioner is not involved in any other case and has undergone an actual custody of 01 month and 04 days, out of total sentence of 01 years.
 - (vi) There is nothing on record to suggest that petitioner has misused the concession of interim bail granted to him
12. 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 a new line of defence can be adopted nor any reappraisal of the evidence can be undertaken. No illegality or perversity has been pointed out by the petitioner, hence, no occasion would call for upsetting the findings recorded or the sentence awarded and affirmed by the Courts.
13. I have heard learned counsel for the parties and have gone through the impugned judgments.
14. Since the revisionist-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 solely restricted to the issue of sentencing and quantum of punishment.
15. 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.

16. The Hon'ble Supreme Court in the matter of **Pramod Kumar Mishra Vs. State of UP (2023) 9 SCC 810**, observed that punishment must not be viewed as an act of vengeance but as a means of reformation and reintegration of the offender into society. It was further held that an appropriate sentence must be determined by considering a range of factors, including the nature and circumstances of the offence, the offender's background, age, mental and emotional condition, potential for rehabilitation, prior criminal record, and the deterrent needs of the community. Sentencing, the Court noted, involves a delicate exercise of judicial discretion where multiple social, psychological, and moral factors must be balanced to ensure that justice serves both societal protection and individual redemption.

17. The fundamental purpose of imposition of sentence is based upon making an accused realize the consequences of the crime committed by him and the creation of the dent in the life of the victims and also the social fabric. The same by itself does not oblige the Court to extend an opportunity to a convict for reforming himself. The principles of proportionality have to be balanced and the impact of the offence on the society as a whole and its ramifications on the victim and the immediate collectives also has to be examined.

18. A nine judge bench of the Supreme Court of the United States, in ***Dennis Councle McGautha v. State of California*** reported as **402 U.S. 183 (1971)**, observed that the criteria governing sentencing neither furnish an exhaustive list of relevant considerations nor indicate how various circumstances should influence the decision-making process. In essence,

these standards merely suggest broad areas for consideration and underscore the inherent difficulty in formulating uniform sentencing principles, particularly in matters of grave offences. The Court further cautioned against rigidly prescribing or mandating uniform standards for sentencing, emphasizing that the principles governing punishment must depend upon the facts and circumstances of each individual case, and that no straightjacket formula can be universally applied.

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. Taking into consideration, the facts noticed above and

considering that the petitioner has faced the rigor of criminal prosecution for almost three decades and as against the substantive sentence of 01 year, he has already undergone sentence of 01 months and 4 days, is a first time offender with no criminal antecedents and is certainly on a higher aging side. I deem it appropriate to partly allow the petition. While maintaining the judgment of conviction, the order of sentence so passed is modified. The sentence awarded under sections 279, 337 and 304-A of IPC, 1860, by the Additional Chief Judicial Magistrate, Kapurthala vide judgment dated 31.10.2005 and modified by the Additional Sessions Judge, Kapurthala vide judgment dated 21.01.2011, is modified and reduced to the period already undergone by him.

26. The petition is accordingly ***partly allowed***.
27. Pending criminal misc. application(s), if any, stand disposed of.
28. A copy of this order be sent to the High Court Legal Services Committee for information and necessary action.

(VINOD S. BHARDWAJ)
JUDGE

11.02.2026

Mangal Singh

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