



2026:DHC:5634



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 08.07.2026
Pronounced on: 15.07.2026

+ **CRL.REV.P. 4/2015**

OM PRAKASH

.....Petitioner

Through: Mr. Simodh Bansal, Mr. Piyush
Singhal, Mr. Ishpreet Singh, Mr. Ajit
Kumar, Ms. Mansi Sharma, Advs.

versus

THE STATE

.....Respondent

Through: Mr. Naresh Kumar Chahar, APP.
SI Rahul Rathi, PS Sangam Vihar

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

MADHU JAIN, J.

1. This hearing has been done through hybrid mode.
2. The present revision petition is directed against the judgment dated 21.10.2014 passed by the learned District & Sessions Judge, Saket Courts, New Delhi, whereby the appeal preferred by the petitioner against the judgment of conviction dated 04.05.2013 and the order on sentence dated 07.05.2013 passed by the learned Metropolitan Magistrate, South, in FIR No. 424/1999, P.S. Sangam Vihar, under Sections 279/337/304-A IPC, was dismissed. Vide the judgment dated 04.05.2013, the petitioner was convicted under Sections 279, 337 and 304-A of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC').



FACTUAL MATRIX

3. Briefly stated, on 25.09.1999, upon receipt of DD No. 20, the Investigating Officer reached the hospital where Shiv Raj was declared 'brought dead' and Kamal was found under treatment. Kamal stated that while he was travelling as a pillion rider on a scooter driven by Shiv Raj, a DTC bus bearing registration No. DL-1PA-XXX, allegedly driven by the petitioner in a rash and negligent manner from the wrong side, hit the scooter near Lal Kuan Red Light, M.B. Road, resulting in the death of Shiv Raj and injuries to Kamal. On the basis of Kamal's statement, an FIR under Sections 279, 337 and 304-A IPC was registered. Upon completion of the investigation, a charge-sheet was filed, notice under the aforesaid provisions was served upon the petitioner, and the petitioner denied the allegations in his statement under Section 313 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC').

4. The learned Trial Court, vide judgment dated 04.05.2013, convicted the petitioner for the offences punishable under Sections 279, 337 and 304-A IPC. The relevant extracts of the impugned judgment are reproduced hereinbelow:

"11. Whether there were injuries upon the person in question?"

PW2 categorically deposed that he sustained injuries on his left hand in the accident in question. MLC Ex. PW8/B also proved the factum of simple injuries upon the person of complainant PW2.

12. Whether there was death of the person in question?"

In view of the unassailed testimony of PW2, it stands established that the deceased Shiv Raj was crushed under the front wheel of the bus being driven by the accused. This fact is not disputed by the accused as no suggestion in this regard was put to PW2. Further, as per the Post-mortem Report Ex. PW1/A,



the death was caused due to haemorrhagic shock as a result of multiple injuries caused by blunt force impact consistent with a road traffic accident (RTA). Accordingly, this ingredient also stands proved.

13. The contention raised by the learned defence counsel that various contradictions are noticed in the testimony of the prosecution witnesses also holds no water, as the learned defence counsel failed to point out any major contradiction. The irregularities such as non-collection of blood-stained earth, non-availability of photographs of the spot and other procedural irregularities do not demolish the prosecution case in its entirety, especially when the eye-witness has consistently supported the prosecution version.

*It has been observed by the Hon'ble Supreme Court in **Zindar Ali Sk v. State of West Bengal & Anr.**, 2009 III AD (SC) 7 that:*

"It is trite law that the defence cannot take advantage of such bad investigation where there is clinching evidence available to the prosecution as in this case."

The contention regarding damage to the headlight of the scooter also does not merit acceptance. It has come on record that the scooter fell down due to the impact of the collision, which could have resulted in damage to the headlight. Likewise, the contention regarding the three-hour gap between the accident and the arrest of the accused is immaterial, as the proceedings naturally took time and there is no evidence to show that the accused was arrested at 10:30 p.m.

*Minor contradictions, if any, are bound to occur due to lapse of time and individual perception and narration of events. In **Shankar v. State of Karnataka**, AIR 2011 SC 2302, the Hon'ble Supreme Court held:*

"In all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, errors of memory



due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. Minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of the prosecution case should not be made a ground to reject the evidence in its entirety. Exaggerations per se do not render the evidence brittle. Irrelevant details which do not corrode the credibility of the witness cannot be labelled as omissions or contradictions. Only omissions amounting to material contradictions affecting the core of the prosecution case render the testimony liable to be discredited."

14. This Court is also mindful of the observations of Hon'ble Justice V.R. Krishna Iyer in Shivaji Sahabrao Bobade v. State of Maharashtra, (1973) 2 SCC 793, wherein it was held that:

The rule of proof beyond reasonable doubt should not be stretched to embrace every fanciful or remote doubt. Only reasonable doubts are to enure to the benefit of the accused. Excessive acquittals undermine public confidence in the criminal justice system as much as wrongful convictions do. A balance has to be struck between protecting the innocent and ensuring that the guilty do not escape on mere conjectures or unrealistic standards of proof.

15. In the light of the above discussion, it is held that all the ingredients of the offences punishable under Sections 279, 337 and 304-A IPC stand proved. Accordingly, accused Om Prakash is convicted for the offences punishable under Sections 279, 337 and 304-A IPC. Ordered accordingly."

5. Consequent upon the conviction, the learned Trial Court, vide order on sentence dated 07.05.2013, imposed sentence upon the petitioner. The relevant extracts of the order on sentence are reproduced hereinbelow:



“Therefore, in order to meet the ends of justice, the convict is sentenced to simple imprisonment for a period of 6 months and to pay a fine of Rs.1,000/- (in default of payment of fine, further imprisonment of 10 days) for the offence punishable U/s 279 IPC. He is also sentenced to undergo simple imprisonment for a period of 6 months and to pay a fine of Rs.500/- (in default of payment of fine, further imprisonment of 5 days) for the offence punishable U/s 337 IPC. He is also sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs.5,000/- (in default of payment of fine, further imprisonment of 1 month) for the offence punishable U/s 304-A IPC. All the sentences shall run concurrently. Benefit of Section 428 Cr.P.C., if any, be given to the convict.

At this stage, an application for suspension of sentence U/s 389 Cr.P.C. is filed on behalf of the convict.

Heard on the application. The operation of the order on sentence stands suspended for a period of 30 days subject to furnishing of PB & SB in the sum of Rs.20,000/- each. Bail bonds are furnished and accepted.”

6. Aggrieved by the aforesaid order, the petitioner has approached the Learned Session Court by way of an appeal. The learned Session Court, vide the impugned judgment date 21.10.2014, dismissed the appeal and held as under:

“33. In compliance with the directions in the aforementioned case of **Satya Prakash v. State (supra)**, a Victim Impact Report (VIR) was called for before hearing the appeal on merits. The VIR submitted by the investigating agency indicates that the deceased was a 25-year-old person working as a supervisor in a private company with an income



of Rs. 15,000/- per month. The deceased is survived by his wife, Smt. Hemlata Devi, a daughter, Preeti, aged about 14 years and studying in the 9th standard, besides his mother, Smt. Moti Kanwar. It appears from the report that, in the corresponding motor accident claim case, compensation of Rs. 4,20,000/- had been awarded, which has been apportioned amongst the legal heirs.

34. On the other hand, the appellant has been found by the investigating agency to have been engaged as a driver in private employment with a meagre income of Rs. 5,500/- per month. His wife and three children are dependent upon him.

35. In the facts and circumstances noted above, the appellant is not financially sound so as to be called upon to pay any further compensation. Moreover, sufficient compensation has already been awarded and paid to the legal heirs of the deceased scooterist. Therefore, no further direction in this regard is required to be passed by this Court in appeal.

36. Undoubtedly, the public roads in the capital city of Delhi have been witnessing a great deal of mayhem at the hands of reckless drivers, particularly those driving commercial vehicles. Better discipline on the roads and strict compliance with traffic rules are the need of the hour. This can be achieved only if criminal courts incorporate the necessary element of deterrence through appropriate sentencing. Having regard to the principles laid down by the Hon'ble Supreme Court in various judgments, including **Dalbir Singh (supra)**, I find that the sentence awarded by the Trial Court is commensurate with the crime committed by the appellant. Therefore, I do not find any reason to take a lenient view.



37. The appeal is, thus, found devoid of merit and is accordingly dismissed. The appellant is taken into custody and sent to jail under the appropriate warrant to undergo the sentence awarded by the Trial Court.”

7. Aggrieved by the aforesaid impugned judgement, the petitioner has approached this Court by way of the present petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER

8. Learned counsel for the petitioner submits that he is not challenging conviction of the petitioner but pressing the present petition only to the extent of the order on sentence.

9. Learned counsel for the Petitioner submits that the petitioner has already undergone the ordeal of a protracted criminal trial for nearly fifteen years, i.e., from 1999 to 2014. It is submitted that ever since the accident, the petitioner has maintained an unblemished record and no criminal case or complaint has been registered against him. It is further contended that no other criminal proceedings are pending against the petitioner and that he has since led the life of a law-abiding citizen. It is further submitted that the petitioner was in jail for more than 7 months.

10. It is further submitted that the Petitioner has responsibly discharged his family obligations and has brought up his children in a proper manner. Learned counsel submits that the petitioner at the time of the incident had a wife and two children, aged about 12 years and 16 years, who were wholly dependent upon him. It is contended that, at this stage, if the petitioner is sent to prison, his family, particularly his children, would suffer immense hardship.

11. On the aforesaid grounds, learned counsel submits that the Petitioner



deserves to be extended the benefit of the Probation of Offenders Act, 1958. In the alternative, it is prayed that the petitioner be granted the benefit available under the provisions of the said Act, considering the facts and circumstances of the case.

12. Learned counsel for the petitioner, in support of the aforesaid submissions, also placed reliance upon the following decisions:

- *Paul George v. State of NCT of Delhi*, (2008) 4 SCC 185
- *Krishnadeo Yadav v. State of Jharkhand*, 2025 SCC OnLine Jhar 2810
- *Sanjay Colaro v. State of Karnataka*, 2025 SCC OnLine SC 1147
- *Sagar Lolienkar v. State of Goa*, (2022) 1 SCC 161

SUBMISSIONS ON BEHALF OF THE RESPONDENT

13. *Per Contra*, learned APP for the State opposes the prayer of the petitioner and contends that no benefit of probation be given to the petitioner. It is stated that impugned order on sentence passed by learned Appellate Court deserves no interference.

14. It is further submitted that the petitioner was driving a public transport vehicle in a rash and negligent manner, resulting in the death of one person and causing injuries to another. The gravity of the offence cannot be diluted merely on account of the passage of time.

15. It is submitted that the sentence awarded by the learned Trial Court, as affirmed by the learned Session Court, is proportionate to the nature and gravity of the offence and calls for no interference. It is, therefore, prayed that the present revision petition be dismissed.

ANALYSIS AND FINDINGS

16. I have heard the learned counsel for the petitioner as well as the learned



counsel for the respondent and have gone through the material on record.

17. Since the learned counsel for the petitioner has restricted his submissions to the question of sentence and grant of benefit under the Probation of Offenders Act, 1958, this Court does not propose to examine the findings of conviction recorded against the petitioner under Sections 279, 337 and 304-A IPC.

18. The issue for consideration before this court is that whether the petitioner is entitled to get benefit of probation as provided under Sections 3 and 4 of the Probation of Offenders Act, 1958.

19. The petitioner was convicted vide judgment dated 04.05.2013 and sentenced vide order on sentence dated 07.05.2013. Aggrieved thereby, the petitioner preferred an appeal before the learned Sessions Court. Vide order dated 03.06.2013, the learned Session Court suspended the sentence awarded to the petitioner during the pendency of the appeal, subject to his furnishing a personal bond in the sum of Rs. 20,000/- with one surety in the like amount to the satisfaction of the concerned Court. The relevant extract of the order suspending the sentence is reproduced below:

“03.06.2013

Present:

Sh. M. Zafar Khan, Ld. APP for the State.

Ld. counsel for the appellant.

This criminal appeal U/s 374 Cr.P.C. has been filed against the judgment dated 04.05.2013 and the order on sentence dated 07.05.2013 passed by Ld. MM Sh. Ajay Garg.

Ld. APP for the State, on behalf of the State, has accepted the notice.

Heard.

Till the disposal of the appeal, sentence is suspended subject to the appellant furnishing a personal bond in the sum of Rs. 20,000/- with one



*surety in the like amount to the satisfaction of the Trial Court/Duty MM.
The appeal be notified for further allocation order before the Ld. District & Sessions Judge (South) for 02.07.2013.”*

20. Aggrieved by the dismissal of the appeal, the petitioner has preferred the present revision petition before this Court. Vide order dated 22.05.2015, this Court suspended the sentence awarded to the petitioner during the pendency of the revision petition, subject to his furnishing a personal bond in the sum of Rs. 50,000/- with one surety in the like amount to the satisfaction of the learned Trial Court.

21. The nominal roll of the petitioner has also been perused by this Court. It reveals that the petitioner remained in judicial custody as a convict from 21.10.2014 to 18.03.2015, as on 18.03.2015 and has already undergone incarceration for a period of four months and twenty-eight days. The nominal roll further records that the petitioner's conduct in jail remained satisfactory, that he maintained proper behaviour during incarceration, and that no punishment or adverse report was ever recorded against him. It is also noted that there are no other pending criminal case and no previous conviction against the petitioner.

22. The Probation of Offenders Act, 1958 empowers the Court, in appropriate cases and subject to the statutory conditions, to release a convict on probation of good conduct instead of directing him to undergo imprisonment. While exercising such discretion under Sections 3 and 4 of the Act, the Court is required to consider the conduct and antecedents of the offender, the possibility of his reformation and rehabilitation, and whether there exists any likelihood of his indulging in criminal activity in future. The aforesaid principles have been reaffirmed by the Supreme Court in **Rajendra**



Pralhadrao Wasnik v. State of Maharashtra, (2019) 12 SCC 460.

23. The object and purpose of the Probation of Offenders Act, 1958 was further elucidated by the Supreme Court in ***Lakhvir Singh v. State of Punjab, 2021 SCC OnLine SC 25***, wherein the Court observed as under:

“...to give the benefit of release of 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....”

24. The Learned counsel for the petitioner has placed reliance upon the decision of the Supreme Court in ***Paul George v. State (NCT of Delhi), (2008) 4 SCC 185***. In the said case, while maintaining the conviction of the appellant under Sections 279 and 304-A IPC, the Supreme Court extended the benefit of Section 4 of the Probation of Offenders Act, 1958. The Court took into consideration the fact that the criminal proceedings had remained pending for nearly twenty years, that the appellant had an otherwise unblemished service record except for the solitary incident in question, and that he had already suffered dismissal from service on account of his conviction. Holding that the ends of justice would be better served by adopting a reformatory approach, the Supreme Court directed that the appellant be released on probation. The relevant extract of the judgement is reproduced below:

“This appeal by way of special leave is directed against the judgment of the High Court of Delhi dated 30-5-2006 confirming the judgment of the trial court and the first appellate court convicting the appellant for offences punishable under Sections



279 and 304-A IPC but reducing the sentence imposed by the first two courts to 6 months' imprisonment but retaining the fine as it is.

XXX

This litigation has been going on for the last 20 years and has been fought tenaciously through various courts, we are also told that the appellant who has had a good career throughout but for this one aberration has since been dismissed from service on account of his conviction. We, therefore, while dismissing the appeal, feel that the ends of justice would be met if we direct that the appellant be released on probation under Section 4 of the Probation of Offenders Act, 1958 on conditions to be imposed by the trial court. The appeal is disposed of in the above terms.”

25. While this Court is conscious that the offence under Sections 279, 337 and 304-A IPC resulted in the loss of a human life and injuries to another person, the object of the Probation of Offenders Act, 1958, is to encourage the reformation and rehabilitation of offenders in appropriate cases.

26. The learned Sessions Court, in the impugned order dated 21.10.2014, also noted that the petitioner was not financially sound so as to be called upon to pay further compensation and that sufficient compensation had already been awarded to the legal heirs of the deceased scooterist. Accordingly, no further direction in that regard needed to be given by the Court in appeal.

27. Considering that the occurrence is of the year 1999, the petitioner has undergone the ordeal of criminal proceedings for more than twenty-six years, has already remained in custody for about five months, has maintained satisfactory conduct both inside and outside prison, has no criminal antecedents and has not misused the liberty granted to him during the pendency of the proceedings, this Court is of the considered opinion that the



ends of justice would be adequately served by extending to him the benefit of probation.

28. The provisions of the Probation of Offenders Act, 1958 empower the courts to release the convict on good conduct, and the nature of the offence and the behaviour of the convict need to be taken into consideration while granting the probation. The grant of relief of probation under the said Act varies from case to case and thus needs to be scrutinized independently in each case. Considering the overall facts and circumstances of the case, this Court is of the opinion that the benefit of probation under Sections 3 and 4 of the Probation of Offenders Act, 1958 can be extended to the present petitioner.

CONCLUSION

29. Accordingly, while maintaining the conviction of the petitioner under Sections 279, 337 and 304-A IPC, the substantive sentence of imprisonment awarded by the learned Trial Court and affirmed by the learned Appellate Court is set aside.

30. The petitioner is directed to be released on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958 on furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the learned Trial Court for a period of two years, within two weeks from today, with an undertaking to maintain peace and good behavior during the said period.

31. The petitioner shall remain under the supervision of the concerned Probation Officer for a period of two years and shall report before the Probation Officer once every month or as directed.

32. In the event the petitioner commits any breach of the conditions of the



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bond or fails to maintain good conduct during the period of probation, he shall be liable to undergo the substantive sentence imposed upon him in accordance with law.

33. The petitioner shall appear before the learned Trial Court on 30.07.2026.

34. The petition is accordingly disposed of in the above said terms. Pending application(s), if any, stand disposed of.

35. A copy of this judgment be forwarded to the concerned learned Trial Court along with the Trial Court Record, for information and compliance.

(MADHU JAIN)
JUDGE

JULY 15, 2026/ys/RM