

(1990) 07 P&H CK 0016

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Nirmal Singh

APPELLANT

Vs

Union Territory Chandigarh

RESPONDENT

Date of Decision: July 24, 1990**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 279, 304A
- Probation of Offenders Act, 1958 - Section 4

Citation: (1991) 1 ACC 5 : (1991) 2 ILR (P&H) 33 : (1990) 2 RCR(Criminal) 458**Hon'ble Judges:** S.S. Grewal, J**Bench:** Single Bench

Judgement

S.S. Grewal, J.

This revision petition is directed against the order of the Additional Sessions Judge, Chandigarh, dated 9-7-1990, whereby, the conviction under sections 279 and 304A I.P.C. as well as the sentence imposed by the trial Court on the present P.2. petitioner u/s 304A I.P.C. for 9 month R.I. and a fine of Rs. 1, 000/- or in default thereof to undergo R.I. for one month, was upheld.

2. In brief, facts relevant for the disposal of this petition, are that on 24-3-1985, at 2.00 P.M. the petitioner who was driving bus No. CHW-3579 came from behind and struck against the rickshaw driven by Ram Asra PW. As a result of the said collision the right rim of the rickshaw get bent and the passengers including Pushpa Devi fell down. Pushpa Devi who received injuries was immediately shifted by the petitioner in the same bus to P.G.I. Chandigarh shortly after the accident. Pushpa Devi, however, died as a result of the said accident in the P.G.I. on the same night This petition was admitted only concerning quantum of sentence awarded to the petitioner by the Courts below and also to consider as to whether benefit of Probation of Offenders Act can be granted to the petitioner, or not.

3. On behalf of the petitioner, it was submitted that the petitioner is a first offender and that he is employed with the Union Territory Chandigarh as a Driver and has been working as such for the last more than ten years. It was further submitted that after the accident the petitioner took the injured to the hospital and got her admitted there. There is nothing on the record which would show that the petitioner is a previous convict. Taking into consideration his age, antecedents, the manner in which the accident took place, the conduct P.3. of the petitioner in removing the injured to the hospital immediately after the accident, as well as the fact that the petitioner is employed as driver with Union Territory, Chandigarh, in my opinion, it is a fit case to give benefit of Probation of Offender Act, to the petitioner.

4. For the foregoing reasons, the petitioner is directed to be released on probation of good conduct for a period of one year u/s 4(1) of the probation of Offenders Act, 1958 subject to his furnishing personal bond in the sum of Rs. 5, 000/- with one surety of the like amount to the satisfaction of the trial Court. The petitioner shall undertake to keep peace, be of good behaviour during the aforesaid period of probation, and, shall further undertake to receive sentence as and when called upon to do so by the Court. The petitioner shall also pay Rs. 1, 000/- as costs of proceedings. The sentence of fine imposed by the Courts below is set aside, in view of the authority in case [Ishar Das Vs. The State of Punjab](#), . Fine, if, already paid shall be converted towards the payment of costs of proceedings. Driving licence of the petitioner shall be restored to him and the order concerning cancellation of driving licence of the petitioner by the Courts below is set aside. This petition is allowed to the extent indicated above.