

**Pal Alias Nand Lal Vs. State (Delhi Administration)**

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**SooperKanoon Citation :** [sooperkanoon.com/685743](http://sooperkanoon.com/685743)

**Court :** Delhi

**Decided On :** Apr-07-1983

**Reported in :** 23(1983)DLT484

**Judge :** G.C. Jain, J.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 279; [Code of Criminal Procedure \(CrPC\), 1973](#) - Sections 360; [Probation of Offenders Act, 1958](#) - Sections 4

**Appeal No. :** Criminal Revision Appeal No. 1 of 1983

**Appellant :** Pal Alias Nand Lal

**Respondent :** State (Delhi Administration)

**Advocate for Pet/Ap. :** J.N. Verma and; H.C. Gulati, Advs

**Judgement :**

**G.C. Jain, J.**

(1) On June 10, 1976, at about 5.30 p.m., the petitioner, Nand Lal, was driving a D.T.C. bus, bearing registration number Dhp 2367. A two-wheeler scooter, No. Dls 8292, was going ahead of the bus. On reaching Safdarjung Crossing, the scooter as well as the bus took a turn towards their left. After covering a distance of five or (r)even yards from the crossing the bus hit the scooter from behind. The driver as well as the pillion rider of the scooter fell on the road and were crushed under the

front left wheel of the bus. One of them died on the spot and the other died in the Safdarjung Hospital the same night. The occurrence took place due to rash and negligent driving of the petitioner.

(2) The petitioner was tried for offences under Sections 279 and 304 of the Indian Penal Code and convicted by the learned Metropolitan Magistrate, New Delhi, vide order dated January 14, 1981. He was awarded rigorous imprisonment for three months and a fine of Rs. 500/. and in default to suffer further rigorous imprisonment for one month for the offence under Section 279 and rigorous imprisonment for eighteen months and a fine of Rs. 4,000.00 and in default to suffer rigorous imprisonment for further six months for the second offence i.e. under Section 304-A of the Indian Penal Code. Both the sentences were to run concurrently. The petitioner filed an appeal which was dismissed by the learned Additional District Judge, New Delhi, on December 16, 1982.

(3) Feeling aggrieved, the petitioner has filed the present revision petition under Section 397 read with Section 401 of the Code of Criminal Procedure. It was admitted on January 5, 1983 only on the question of sentence.

(4) Learned counsel for the petitioner vehemently contended that it was a case of pure and simple accident which took place near the crossing. The petitioner had five children and aged parents. He had a clean record and was never convicted earlier. He was hardly 40 years old and in these circumstances it was a fit case for releasing him under Section 360 of the Code of Criminal Procedure or under the Probation of Offenders Act.

(5) The report of the Probation Officer was called for and he has recommended that the petitioner may be considered for benefit of probation under the provisions of Probation of Offenders Act. According to this report the petitioner had five children, wife and aged parents. He belonged to a lower middle-class society and is a permanent resident of Delhi. He was a cool tempered and was reported to be a responsible man.

(6) Section 4 of the Probation of Offenders Act empowers the Court to release a convict on his entering into a bond with or without sureties, to appear and receive

sentence when called upon during such period not exceeding three years as the Court may direct, and in the meantime, to keep the peace and be of good behavior. The benefit of Section 4, however, can be given if the Court finds it expedient to do so, having regard to the circumstances of the case including the nature of offence and the character of the offender. Benefit of Section 360 of the Code of Criminal Procedure has to be given after taking into consideration the age, character and antecedents of the offender and the circumstances in which the offence was committed.

(7) No doubt, the petitioner has a large family to support. It appears that the petitioner is the only earning member of the family because his eldest son is only seven years old. However, at the same time, the nature of the offence has also to be taken into consideration. Because of his negligence two young persons lost their lives. That is a very important circumstance which has to be kept in mind. The occurrence took place at 5.30 p.m., i.e. at peak hours and near the crossing where the petitioner was required to be more careful. Keeping in view the above facts and circumstances of the case I find no justification for giving the petitioner benefit of Section 360 of the Code of Criminal Procedure or Section 4 of the Probation of Offenders Act.

(8) The petitioner is undergoing sentence for the last four months. It was contended that the sentence may be reduced to the sentence already undergone. Keeping in view that the negligent act found to have been committed by the petitioner was responsible for the loss of two valuable lives, the sentence awarded, in my view, cannot be termed as excessive. In *Rattan Singh v. State of Punjab*, (1980 Supreme Court Cases (Cri.) 17), relied by the learned counsel for the petitioner, the sentence of two years rigorous imprisonment was not considered excessive. In that case one life had been lost. In the present case two lives have been lost. I find no scope for interference in the quantum of sentence.

(9) In conclusion, I find no merit in the revision petition and dismiss the same.