

2025-PHHC041229



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-2559-2008(O&M)

Date of Decision:-26.03.2025

Avtar Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Amandeep Saini, Legal Aid Counsel for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 14.11.2008 passed by Additional Sessions Judge, Fast Track Court, Ludhiana whereby the appeal filed against the judgment of conviction and order of sentence dated 30.03.2007 passed by Judicial Magistrate Ist Class, Ludhiana has been dismissed.

2. The FIR in the present case came to be registered on 03.05.1998. The judgment of conviction was passed on 30.03.2007 by the Judicial Magistrate Ist Class, Ludhiana. The Appeal filed against the order of conviction was dismissed on 14.11.2008 by the Additional Sessions Judge, Fast Track Court, Ludhiana. The instant revision petition was filed on 01.12.2008 and has come up for final hearing now i.e. after a period of more than 26 years from the date of registration of the FIR.

3. The brief facts of the prosecution case are that on 03.5.98 complainant Charanjit Singh got recorded his statement with ASI Dalip

Singh that he was a resident of Village Jassowal Soodan and a labourer. His younger brother Darshan Singh was working in a Gas company. On 02.5.98 at about 8PM he alongwith Darshan Singh and another brother Sohan Singh was coming from Village Alamgir side. Darshan Singh was on his own cycle. When they were just near Village Jassowal then one truck bearing no. PIA 5279 came from Alamgir side which was driven by accused Avtar Singh. He was driving his truck at a fast speed and negligently. He crossed him and his brother Sohan Singh and hit the cycle of Darshan Singh from the side. Darshan Singh fell down and he died at the spot. He alongwith his brother tried to look after Darshan Singh. Meanwhile Avtar Singh fled away from the spot with the truck. This incident and death occurred due to the rash and negligent driving of Avtar Singh. After leaving the dead body with Sohan Singh and another person he got recorded his statement. PHC Bahadur Singh was sent for registration of the FIR and the police party reached at the spot. A Photographer was called and photographs at the spot were taken. The Dead body was thereafter referred to the Civil Hospital for post Mortem which was duly conducted. Site plan was prepared. From the spot one cycle and a pair of chappals were taken into possession vide a separate memo. The statement of various person was recorded under Section 161 Cr.PC. The Post Mortem report was obtained. On 06.5.98, truck no. PIP 5272 was taken into possession vide separate memo. On 19.5.98 the accused was formally arrested and released on bail as the offence was bailable. On 24.5.98 photographs were taken into possession vide a separate memo. The Mechanical report was obtained. After completion of investigation and all the formalities challan against the accused under section 279,304-A IPC 181 M.V. Act was presented in the court.

4. After a perusal of the report under section 173 Cr.P.C. and other

documents attached thereto, a prima facie case punishable under section 279, 304-A IPC was found to be made out against the accused. Accordingly charge under section 279, 304-A IPC was framed which was read over and explained to the accused to which the accused pleaded not guilty and claimed trial.

5. In order to prove its case the prosecution examined PW-1 Avtar Singh Photographer, PW2 Charanjit Singh complainant, PW-3 Sohan Singh Spot witness and brother of the deceased, PW4 Teja Singh, PW5 ASI Dalip Singh 10, PW6 Dr. Subash Mehra and PW7 Narotam Kumar representative of the company whose truck was involved in the accident.

6. The statement of the accused was recorded under section 313 Cr.P.C. wherein all the incriminating material against him was put to him. He claimed that he has been falsely implicated in the case.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Ludhiana vide judgment and order of sentence dated 30.03.2007 as under:-

Offence under Section	Sentence	Fine	RI/SI in default of payment of fine
Section 279 IPC	03 Months	-	-
Section 304-A IPC	1-1/2 Years	-	-

Both the aforesaid sentences were ordered to run concurrently.

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Amritsar, vide judgment dated 14.11.2008.

9. The aforementioned judgments are under challenge in the present petition.

10. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated

22.12.2008.

11. The Legal Aid Counsel for the accused/petitioner contends that the prosecution has failed to prove its case beyond reasonable doubt. There are a number of contradictions in the statements of the witnesses. The presence of the eye witness at the spot has not been proved beyond doubt. The accused was not arrested at the spot and no test identification parade was got conducted. The Rash and negligent driving of the accused has also not been proved. He therefore contends that the petition be allowed and the accused be acquitted of the charges framed against him.

12. The Counsel for the State on the other hand has placed on record the custody certificate dated 22.03.2025. He contends that the statements of the prosecution witnesses are consistent with each other and clearly established the culpability of the accused. There is sufficient evidence of the rash and negligent driving on the part of the accused. His identity has been duly established as per law. He, therefore, prays that the present petition was liable to be dismissed.

13. I have heard counsel for the parties.

14. PW2 Charanjit Singh and PW3 Sohan Singh both eye witness have categorically deposed that the accused caused the accident by hitting his truck with the cycle of deceased. These two eye witness who are brothers of the deceased are material witness and there is no reason to disbelieve their testimony as there is no enmity amongst the parties. Though in the cross examination there are some suggestions in this regard but those are general in nature and cannot be a basis to believe that PW2 and PW3 were inimical to the accused. Even otherwise it is unbelievable that instead of inculcating the actual accused they would implicate the present accused without any reason. Further, not only PW2 and PW3, but a totally independent witnesses

PW7 Narotam Kumar deposed that accused Avtar Singh was the driver of truck no. PIP 5277 on 2.5.98.

15. As regards rash and negligent driving there are specific allegations that the truck struck the cycle from the side because of which the cycle fell down and death was caused at the spot. Thus, no inference except the rash and negligent driving of the accused can be drawn from the allegations levelled.

16. Minor contradictions and omissions in the statements of PW2 and PW3 regarding persons sitting on the carrier, timing of photographs, writing work etc. are bound to occur when evidence is recorded after a passage of time. Therefore, undue weightage cannot be granted to such contradictions and omissions.

17. In view of the above discussion, I find no merit in the petition and the same stands dismissed.

18. As regards the imposition of sentence, it may be pointed out that this Court in **Gurmukh Singh Vs. State of Punjab CRR No.2168-2014**

Decided on 13.12.2023 held as under:-

“ 21. Thus two parallel threads are :

- a. Courts should normally avoid showing undue sympathy to the accused by imposing inadequate sentence as the same is harmful to the justice system ; and
- b. The Supreme Court has repeatedly considered the fact that ordeal of facing pangs of prolonged trial needs to be considered while deciding adequacy of sentence in the matters pertaining to offence punishable under Section 304-A IPC. Where the accused has faced the prolonged trial running into more than a decade before it is finally concluded by the High Court or the Supreme Court and both the Courts found that the victim needs to be compensated adequately, the time spent in the lis by an accused and compensation to the victim can form relevant considerations for reduction in sentence.

22. In the present case the present revision is pending consideration for last nine years. FIR relates to the year 2007. The petitioner was

*granted suspension of sentence on 27.10.2014 after he expressed his readiness to compensate the victim by paying Rs.1.00 lac. The afore said amount stands paid. The question is, having paid compensation as per the orders of this Court 9 years back, should the petitioner be asked to go back behind bars? It is in these mitigating circumstances that this Court finds it appropriate to follow the orders passed by Apex Court in **K. Jagdish's case** (supra) as the facts in the present case are almost similar to those before the Apex Court. I may hastenly add here that the petitioner is claimed to have paid compensation and neither the State nor the victim has agitated against the order passed by this court asking the petitioner to deposit compensation and granting him suspension of sentence.*

23. *The petitioner is a first time offender and has no past criminal record or antecedents. He is not reported to have ever misused concession of bail/suspension of sentence. He has undergone about 6 months out of substantive sentence of 1 year and has already faced protracted trial for last 16 years.*
24. *Taking into consideration all these facts cumulatively, the substantive sentence of 1 year awarded to the petitioner by the Courts below is reduced to the period already undergone by him.*
25. *Petition is disposed off, accordingly.”*

18. Admittedly, the occurrence pertains to the year 1998 and more than 26 years have passed ever since then. A perusal of the custody certificate of the accused/petitioner would show that there is no other case of similar nature. Therefore, subject to the payment of the fine as imposed and payment of Rs.1 Lac as compensation to be paid to the legal heirs of the deceased, the sentence of the accused/petitioner is reduced to the period already undergone by him i.e. 01 month and 10 days.

19. The present revision petition stands disposed of in the above terms.

**(JASJIT SINGH BEDI)
JUDGE**

March 26, 2025
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>