



CRM-M-53107-2025 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

04

CRM-M-53107-2025 (O&M)
Reserved on 19.09.2025
Pronounced on 22.09.2025

ARSHPINDER SINGH

..... PETITIONER

VERSUS

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. P.S. Guliani, Advocate
for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

SURYA PARTAP SINGH. J.

1. Challenge in this petition under Section 528 of Bhartiya Nagrik Suraksha Sanhita, is to the order dated 12.08.2025 passed by learned Judicial Magistrate 1st Class, Fazilka. The above mentioned order has been passed in a trial arising out of FIR No.144 dated 18.12.2018, Police Station Arniwala, District Fazilka, under Sections 304, 337, 338 and 427 IPC. By virtue of above mentioned order, hereinafter being referred to as impugned order only, the learned Judicial Magistrate 1st Class, Fazilka, hereinafter being referred to as trial Court only, has committed the above mentioned case to the Court of Sessions for trial.

2. Succinctly the facts emerging from the record are that the FIR of this case came into being on 18.12.2018 at the instance of SI/SHO Jagtar Singh.

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It was stated by the above named police officer that on that day at about 06:00 P.M, when a team, headed by him, was involved in the checking of vehicles at a check point on Malout Fazilka road near village Moolianwali, one Indica car bearing registration number PB-53A-6207, came from Fazilka side. According to above named police officer, it was apparent that the driver of the above mentioned car, who was driving it in a zig zag manner was under the influence of some intoxicant. According to above named police official, when a signal was given to the above mentioned car to stop, the car driver instead of stopping the car, with ill intentions, accelerated it, hit feasibly the barricade and then police officials who were on duty. As per above named police officer, before coming to halt the above-said car also hit an official vehicle and a tractor. In the above mentioned information, it was also mentioned by the above named official that the injured employees were sent to Civil Hospital and that the driver of the offending car was apprehended, who introduced himself as Arspinder Singh son of Parampal Singh.

3. It is the case of the prosecution that in response to above mentioned information, the formal FIR of this case was lodged and the investigation taken up. According to prosecution, during the course of investigation, the injured employee, i.e. PHG Sukhcharan Singh No.6847, passed away on account of injuries suffered in the accident, whereas, the condition of Constable Anil Kumar was serious and therefore, he was referred to Guru Gobind Singh Medical College, Faridkot. The driver of the offending vehicle was arrested by the Investigating Officer. He was got examined medico-legally and on completion of usual formalities of investigation, the final report

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for the commission of offence punishable under Sections 304-A, 337, 338, 427 and 279 IPC was filed.

4. In addition to above mentioned facts, the brief history of the case is also necessary to be taken into consideration. The record shows that the FIR in this case was lodged for the commission of offence punishable under Sections 304, 337, 338 and 427 IPC and for the same offences the final report under Section 173 Cr.P.C. was filed in the Court. Resultantly, the petitioner continued to be prosecuted for the above mentioned offences. He was duly charge-sheeted and even the statement of witnesses were recorded by the learned trial Court. However, at the stage when the trial was at advance stage, the prosecution moved an application for seeking commitment of the case for trial to Sessions Court, alleging that the evidence available on record leads to a conclusion that in the instant case offence under Section 304 IPC is made out, not the offence under Section 304-A IPC. The above mentioned application was moved on the ground that during the course of trial, when the statements of PW-6 (Sub Inspector Retired Jagtar Singh), PW-8 (PHC Gurmeet Singh), PW-10 (Constable Rajinder Kumar) and PW-11 (PHC Malkeet Singh) were recorded, and the report of chemical examiner Ex. PW-5/E was proved, it came on surface that the alcohol contained in the blood of petitioner was 109.25 mg per 100 ml and thus instead of Section 304-A, Section 304 IPC should have been involved in the instant case.

5. The learned trial Court secured reply to the above mentioned application from the petitioner-accused and thereafter arrived at a conclusion, by virtue of impugned order, that there was substance in the application moved

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by the prosecution. Therefore by accepting the application the learned trial Court committed the case to the Court of Sessions for trial.

6. Aggrieved of the above mentioned order the present petition has been filed by the petitioner on the ground that the impugned order is illegal and not sustainable in the eyes of law. According to petitioner once after investigation the Final Report under Section 173 Cr.P.C. was filed for an offence under Section 304-A IPC, which is triable by the Court of Judicial Magistrate at a belated stage, the case could not have been committed to the Court of Sessions.

7. Heard.

8. It has been contended by learned counsel for the petitioner that the petitioner is a young boy 22 years of age and that he has been already facing agony of trial for the last more than 06 years and that the commitment of case by the trial Court would add to the agony of petitioner, as in Sessions Court, the trial will start place *de novo*.

9. It has also been further argued by learned counsel for the petitioner that otherwise also the learned trial Court has exercised its jurisdiction in an altogether illegal manner, as the case has been committed to the Court of Sessions on the request of prosecution and while doing so it has ignored that at any earlier occasion the Investigating Agency had never sought prosecution of the petitioner under Section 304 IPC. It has also been argued by learned counsel for the petitioner that the future of the petitioner is being ruined due to protracted trial, and that without any justified such agony would increase if the trial start *de novo*.

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10. In addition to above, it has also been argued by learned counsel for the petitioner that in the present case even if the evidence available on record is accepted on its face value, there is nothing on record, to draw an inference that essential ingredients meant for the commission of offence punishable under Section 304 IPC all made out. According to learned counsel for the petitioner in fact a wrong story has been projected by the prosecution, while filing the FIR as well as report under Section 173 Cr.P.C. As per learned counsel for the petitioner since during the course of trial prosecution realized that its false story is not going to get success before the trial Court, in order to make improvement in the prosecution story, it has resorted to filing of application, which led to impugned order. According to learned counsel for the petitioner such an unethical practice is not permissible under the law.

11. While referring to the principles of law laid down by the Hon'ble Supreme Court of India in the case of *State vs. Sanjeev Nanda AIR 2012 Supreme Court 3104*, it has been contended by learned counsel for the petitioner that for the sake of argument even if the story set out by the prosecution is accepted to be true on its face value, the essential ingredients meant for the commission of offence under Section 304 IPC cannot be established.

12. In view of above mentioned arguments, it has been contended by learned counsel for the petitioner that a wrong procedure has been adopted by the learned trial Court on the basis of erroneous appreciation of relevant evidence and therefore, there is need for the indulgence and inference of this Court in the impugned order, by invoking the extra-ordinary jurisdiction.

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According to learned counsel for the petitioner by accepting the present petition, the impugned order be set aside.

13. *Per contra*, learned State counsel has argued that the facts being projected by the petitioner themselves reveals that the petitioner was drunk at the time of commission of offence and that the actions of the petitioner on the spot in themselves proves that the petitioner, being driver of the offending vehicle, was having every knowledge that his action was likely to cause death of human being.

14. While defending the impugned order, the learned State counsel has argued that in the present case, the learned trial Court has acted within the legal parameters enshrined under the law, and that skillfully it has exercised its jurisdiction in committing the case to the Court of Sessions. As per learned State counsel otherwise also since there is no request by the prosecution to add more witnesses in the list of witnesses, the entire evidence to be produced by the prosecution before the learned Court of Sessions is exactly the same and therefore this argument of learned Counsel for the petitioner has got no force that there is any effort to fill-up the lacuna or that the rights of the petitioner are likely to be prejudiced. According to learned State counsel merely on the ground of delay, the legal process cannot be thwarted. The learned State counsel has further argued that there is no merit in the present petition and the same deserves to be dismissed.

15. Record has been perused carefully.

16. In the present case first of all it has to be seen as to whether learned trial Court had the jurisdiction to commit the case to the Court of

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Sessions or not, when the trial was already in progress and had reached to an advance stage.

17. Answer to the above mentioned question lies in the bare provision enshrined under Section 362 of BNSS, (earstwhile Section 323 Cr.P.C.). It provides as under:-

“If, in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing the judgment that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions hereinbefore contained and thereupon the provisions of Chapter XIX shall apply to the commitment so made”.

18. In view of the fact that the above mentioned bare provision of BNSS prescribes that the case can be committed to the Court of Sessions at any stage, it is hereby held that, merely on the ground that case has been committed to the Court of Sessions at an advance stage of trial is not a ground to set aside the impugned order.

19. The second question arsing in the present case is as to whether in the given facts situation, the learned trial Court should have exercised its discretion for the commitment of the case or not. With regard to above the factual matrix of the instant case is of utmost relevance. At the very out-set the contents of FIR are relevant, which was recorded in view of an information memo sent by Sub Inspector/SHO Jagtar Singh. The above mentioned memo itself shows that the offending vehicle was being driven by the petitioner in a zig zag manner and when the police party signalled the petitioner to stop the car, instead of stopping he speeded it up and hit the barricade, resulting into

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injuries on the person of police officials and damage to official vehicle vis-a-vis tractor/trolley.

20. The other relevant fact to be taken into consideration is the statement of Retired Sub Inspector Jagtar Singh, who has been examined as PW-6. The PW-6 has testified that the driver of the car when signalled to stop had accelerated it, and then hit the barricade. Resulting into injuries on the person of police official.

21. In addition to the testimony of PW-6 the statement of medical officer Dr. Aseem Maini (PW-5) is also relevant. The PW-5 has deposed that when the petitioner was brought for medico-legal examination his blood sample was collected and it was found that alcohol content in the blood of petitioner was 109.25 MG/100ML.

22. The above mentioned act of the petitioner being driver of offending vehicle, when he accelerated the car on being signalled by the police to stop, leads to an inference that this possibility in this case cannot be ruled out that on proper analysis of entire evidence already produced by the prosecution, and to be produced in future, this inference can be drawn that the petitioner was having knowledge that his act of driving a car in drunken condition might lead to the death of somebody else.

23. In the present case, it is relevant to mention here that at this stage when only a question with regard to validity of impugned order is to be looked into, this Court has to refrain itself from appreciating the prosecution evidence and record any finding as to whether on the basis of above mentioned evidence essential ingredients ment for the commission of offence punishable under Section 304 IPC (either Part I or Part II) are made out or not. Because any such

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observation may influence the findings to be recorded by learned trial Court with regard to framing of charge.

24. At this stage, the only question which is being determined by this Court is whether in the given facts situation the commitment of case to the Court of Sessions is valid or not. Qua above-mentioned aspect it is hereby held that in view of above mentioned observations, once the learned trial Court has exercised its jurisdiction which was duly vested in it by virtue of Section 362 BNSS, without commenting anything on the question as to whether charge under Section 304 is made out against the petitioner or not, it is hereby held that there is no scope for indulgence and interference, by examining the extraordinary jurisdiction, in the discretion exercised by the learned trial Court, while committing the case to the Court of Sessions.

25. In the present case a lot of thrusts of arguments of learned counsel for the petitioner has been that the petitioner has already faced agony of protracted trial in the last more than 06 years and that the impugned order will further delay the decision in this case as the trial will have to be conducted *de novo*. With regard to above mentioned contention, it is relevant to mention here that one of the significant aspects to be noted in the case is that there are allegations of drunken driving by the petitioner and on account of above mentioned act of the petitioner the valuable life of a human being has been lost. If the miseries of the petitioner due to protracted trial are put across to the miseries being faced by the family of police official who lost his life, the miseries of petitioner stands no where. Otherwise also in view of the relevant legal principles of law the above-mentioned ground has no merits.



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26. As a sequel to above mentioned observations, it is hereby held that there is no illegality or infirmity in the impugned order and that the present petition is devoid of merits. Hence, being without merit, the present petition is hereby dismissed.

**(SURYA PARTAP SINGH)
JUDGE**

22.09.2025

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Whether speaking/reasoned : Yes
Whether Reportable : No