



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

CRR-2637-2009(O&M)

Date of Decision:-16.01.2025

Vikram Singh.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. J.S. Sohal, Advocate for
Mr. Vipin Pal Yadav, Advocate for the Petitioner.

Mr. Viney Phogat, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 01.10.2009 passed by Sessions Judge, Narnaul whereby the appeal filed against the judgment of conviction and order of sentence dated 04/05.06.2008 passed by Chief Judicial Magistrate, Narnaul has been dismissed.

2. The FIR in the present case came to be registered on 12.11.2000. The judgment of conviction was passed on 04/05.06.2008 by the Chief Judicial Magistrate, Narnaul. The Appeal filed against the order of conviction was dismissed on 01.10.2009 by the Sessions Judge, Narnaul. The instant revision petition was filed on 08.10.2009 and has come up for final hearing now i.e. after a period of 24 years from the date of registration of the FIR.

3. In brief, the facts of the case are that on 12.11.2000 on receiving a telephonic message with regard to death of a person in an accident of a tempo with a four-wheeler, S.I. Heera Lal along with other police officials rushed to the site of the occurrence where Banwari Lal son of Ruga Ram resident of Bihali Police Station, Ateli met him and got recorded his statement stating therein that on that day he, his son Jai Singh, daughter-in-law Omli and nephew Om Parkash son of Chiranji came to Mandi Ateli for purchasing household articles. After shopping they caught a three-wheeler to return to their village. The Driver Vikram was driving the said tempo rashly and negligently despite warning by passengers. At about 4.30 P.M. when the tempo reached near the Bus Stand of Shedpur, then another vehicle make Cargo being driven by its Driver in a rash and negligent manner came from the opposite side. Since both the vehicles i.e. tempo as well as Cargo were being driven in a rash and negligent manner, so while crossing, the sides of the vehicles collided. As a result thereof, his son Jai Singh fell down on the road and was crumpled under the tyres of the said Cargo. The offending Cargo did not stop and rather sped away. His son died at the spot. The said accident was caused by the Drivers of both the offending vehicles.

2. After registration of the case the investigation was handed over to S.I. Hoshiyar Singh who visited the spot, prepared the rough site plan, recorded statement of the witnesses under Section 161 Cr. P.C. etc. After collecting sufficient evidence both the accused were arrested. After completion of necessary acts of investigation, the challan was prepared and presented to court by the SHO Police Station, Ateli.

3. Thereafter, the accused were charge-sheeted under sections 279, 304-A of IPC.

4. In order to prove its case the prosecution examined as many as 10 PWS namely the complainant Banwari Lal as PW1, Omli as PW2, Ramesh son of Banwari Lal as PW3, Balwant Singh son of Bhura Ra, as PW4, Inspector Inderpal as PW5, Pawan Kumar son of Ram Karan as PW6, Om Parkash son of Chiranji Lal as PW7, Dr. Sanjay Bishnoi as PW8, Ramautar son of Mohar Singh as PW9 and Hoshiyar Singh Inspector as PW10.

5. Statements of the accused were recorded under Section 313 Cr.PC on 19.5.2008 wherein all the incriminating evidence was put to them. They denied all the allegations of the prosecution and pleaded false implication. They opted to lead evidence in defence but no such evidence was lead.

6. While accused Krishan Kumar son of Thawarmal came to be acquitted, the accused/petitioner came to be convicted and sentenced by the court of Chief Judicial Magistrate, Narnaul vide judgment and order of sentence dated 04/05.06.2008 as under:-

Offence Section	under	Sentence RI/SI	Fine	RI/SI in default of payment of fine
279 IPC		RI for 03 Months	Rs.200/-	RI for 15 Days
304-A IPC		RI for 01 Year	Rs.800/-	RI for 15 Days

Both the aforesaid sentences were ordered to run concurrently.

9. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Sessions Judge, Narnaul vide judgment dated 01.10.2009.

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

11. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 17.11.2009.

12. The counsel for the accused/petitioner contends that the judgments of conviction are based on conjectures and surmises. There is unexplained delay in the registration of the FIR and has been used to implicate Vikram Singh. There was no evidence of any rash and negligent driving on his part. Even his identification had not been established as per law. In addition he contends that in case this Court was to come to a finding that the prosecution had established its case beyond reasonable doubt, then keeping in view the fact that the occurrence was of the year 2000 and the case had come up for final hearing now after a gap of 24 years, the accused/petitioner may be released on probation subject to payment of compensation.

13. The Counsel for the State on the other hand has filed a custody certificate of the accused/petitioner dated 15.01.2025 and the same is taken on record. He contends that the evidence on record was sufficient to establish the culpability of the petitioner. The prosecution witnesses had deposed as to the manner in which the occurrence had taken place. There were no discrepancies in their statements as has been sought to be argued. Therefore the present petition was liable to be dismissed.

14. I have heard learned Counsel for the parties and examined the record.

15. So far as accused/petitioner-Vikram is concerned there is sufficient evidence on record to prove that he was on the driving seat of the tempo at the relevant time. He has been named as the driver of the tempo by complainant Banwari Lal PW1 as well as PW2 Smt. Omli. Even PW7 Om Parkash who did not support the prosecution case on the point of negligence of the tempo driver, specifically stated that Vikram (accused/petitioner) was at the wheels of the tempos. PW9 Ram Avtar, who is the owner of the

tempo, has also testified that Vikram was driving the tempo on the relevant day. The statement of complainant Banwari Lal (PW1) that the drivers of both the vehicles were negligent stands corroborated by the testimony of PWs Smt. Omli. PW-7 Om Parkash, who was also travelling in the tempo at that time, admitted in the cross examination conducted on behalf of the State that he had mentioned in his statement before the police that Vikram was driving the tempo at a high speed and was requested by the passengers to drive slow. Thus the prosecution has succeeded in establishing the culpability of the petitioner beyond any reasonable doubt.

16. 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 aforesaid 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.”*

17. Admittedly, the occurrence pertains to the year 2000 and as many as 24 years have passed ever since then. A perusal of his custody certificate would show that he does not have any criminal antecedents and is a first time offender. 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 20 days.

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

**(JASJIT SINGH BEDI)
JUDGE**

January 16, 2025
Vinay

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