

2024:PHHC:169156



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

CRR-1197-2008(O&M)

Date of Decision:-17.12.2024

Baldev Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Rishabh Tewari, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, AAG Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 07.07.2008 passed by Additional Sessions Judge, Ludhiana whereby the appeal filed against the judgment of conviction and order of sentence dated 17.01.2007 passed by Judicial Magistrate Ist Class, Ludhiana has been dismissed.

2. The FIR in the present case came to be registered on 06.01.2002. The judgment of conviction was passed on 17.01.2007 by the Judicial Magistrate Ist Class, Ludhiana. The Appeal filed against the order of conviction was dismissed on 07.07.2008 by the Additional Sessions Judge, Ludhiana. The instant revision petition was filed on 15.07.2008 and has come up for final hearing now i.e. after a period of 22 years from the

date of registration of the FIR.

3. The brief facts of the prosecution case are that the complainant Joginder Singh recorded his statement before the police that at about 8.30 he alongwith his son Manjit Singh and his wife Satinder Kaur and his nephew Ranjit Singh went to village Rajowal at the place of Babaji to pay homages. When his son and his wife were coming back on their scooter no.PB.10A.2399 Bajaj Chetak after paying homages he and his nephew Ranjit Singh were also following them on the scooter. When they came towards village Badian, then a truck came rashly and negligently from the front and without blowing any horn struck against the scooter of Manjit Singh. Manjit Singh and his wife received multiple injuries and the scooter was also damaged. The Truck driver fled away from the spot with his truck. Thereafter, Manjit Singh and his wife were taken to DMC Hospital in a private vehicle. On the way to DMC, Manjit Singh died due to injuries received by him. His daughter-in-law was under treatment. Legal action was sought.

4. After recording the statement of the complainant, ASI Lakhvir Singh conducted investigation and after the post mortem examination the dead body was handed over to the family. Accused Baldev Singh was arrested on 13.03.2002 and truck no.HYE-1607 was taken into custody. After completion of necessary formalities, challan against the accused was presented in the court.

5. Based on the evidence led, the accused came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Ludhiana vide judgment and order of sentence dated 17.01.2007 as under:-

Offence Section	under	Sentence RI/SI	Fine	RI/SI in default of payment of fine
279 IPC		RI for 06 Months	Rs.500/-	RI for 15 days
304-A IPC		RI for 1 Year	Rs.1000/-	RI for 01 Month

Both the sentences were ordered to run concurrently.

5. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Ludhiana vide judgment dated 07.07.2008.

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

7. During the pendency of the instant revision petition, the sentence of the petitioner was suspended vide order dated 29.08.2008.

8. The counsel for the petitioner contends that the judgment of conviction and order of sentence was passed on the basis of conjectures and surmises. The prosecution witnesses were discrepant in material particulars. Therefore, the present petition was liable to be allowed and the petitioner ought to be acquitted of the charges framed against him. 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 2002 and the case had come up for final hearing now after a gap of 22 years, the petitioner may be released on probation subject to payment of compensation.

9. The Counsel for the State on the other hand has filed a custody certificate of the petitioner dated 14.12.2024 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.

10. I have heard learned Counsel for the parties and examined the

record.

11. The evidence of the prosecution is consistent with the guilt of the petitioner. The manner in which the occurrence took place has been explained in detail. Merely, because the witnesses were related to the deceased is no ground to disbelieve them as no enmity has been established with the petitioner. Therefore, I find no infirmity in the judgments of the Trial Court as well as of the lower Appellate Court. Resultantly, the present revision stands dismissed.

12. 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.”*

13. As regards the imposition of sentence, admittedly, the occurrence pertains to the year 2002 and as many as 22 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 petitioner is reduced to the period already undergone by him i.e. 01 month and 28 days.

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

(JASJIT SINGH BEDI)
JUDGE

December 17, 2024
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No