

**CRR-2821-2009(O&M)**

#1#

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRR-2821-2009(O&M)
Date of Decision:-17.12.2024****GURJANT SINGH****.....Petitioner****VERSUS****STATE OF PUNJAB****.....Respondent****CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Kuldeep V. Singh, Advocate with
Mrs. Jasjit Kaur, 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 06.10.2009 passed by Additional Sessions Judge (Ad hoc), Fast Track Court, Mansa whereby the appeal filed against the judgment of conviction and order of sentence dated 04.01.2008 passed by Chief Judicial Magistrate, Mansa has been dismissed.

2. The FIR in the present case came to be registered on 04.08.2002. The judgment of conviction was passed on 04.01.2008 by the Chief Judicial Magistrate, Mansa. The appeal filed against the order of conviction was dismissed on 06.10.2009 by the Additional Sessions Judge (Ad hoc), Fast Track Court, Mansa. The instant revision petition was filed on 30.09.2009 and has come up for final hearing now i.e. after a period of 22 years from the date of registration of the FIR.

The facts of the prosecution case, in brief, are that on

*CRR-2821-2009(O&M)*

#2#

04.08.2002, ASI Roop Chand along with other police officials were present near Khalsa High School, Mansa, for patrolling, at the railway crossing, Bikker Singh son of Jaggar Singh, SC, resident of Ward No. 2, Street No. 2, Shaheed Bhagat Singh Nagar, Mansa, got recorded his statement, the gist of which is that he was a resident of Mansa. He was running a shop to repair purchase, Near Petrol Pump, DC Chowk, Mansa. On the day of the occurrence, he along with his grandson Rajinder Singh son of Mukhtiar Singh, SC, resident of Ward No. 2, Street No. 2, Shaheed Bhagat Singh Nagar, Mansa, were going to see a girl for him at Village Khara. They were to accompany his maternal uncle's son Kashmir Singh son of Balwant Singh, SC, resident of Nirvair Nagar, Ward No. 2, Thuthianwali Road, Mansa to village Khara. He along with his younger brother Baljinder Singh, his grandson Rajinder Singh had gone to the house of Kashmir Singh in order to make him agree to the marriage of Rajinder Singh with another girl. He along with his younger brother Baljinder Singh were on a bicycle and the cycle was being driven by his younger brother Baljinder Singh while he was sitting on the rear seat. His grandson Rajinder Singh was ahead of them on his cycle. The cycle of his grandson Rajinder Singh was 10 karams ahead of them. When they reached near the Maize fields of Shinder Singh, Near Gurpreet Broiler, Thuthianwali Road, Mansa, at about 07.30 AM, a trailer came from the direction of Thuthianwali and its registration number was to be RJ- 31-G-1926. It was being driven by Gurjant Singh son of Bachan Singh, resident of Thuthianwali. The trailer crossed their cycle and hit the cycle of his grandson Rajinder Singh. As a result of the accident, he fell on

*CRR-2821-2009(O&M)*

#3#

the road and the trailer ran over him. He along with his younger brother raised raula 'Marta-Marta'. The driver of the trailer Gurjant Singh stopped the trailer after crossing the Gurpreet Poultry Farm, Thuthianwali Road, Mansa and they reached the spot. His grandson's left arm was broken and injuries were caused on the right side of his back, back side of his head and various parts of his body and blood started oozing from his mouth. The driver of the trailer Gurjant Singh also reached the spot. His grandson Rajinder Singh was put in the trailer bearing No.RJ-31-G-1926 in an unconscious condition and taken to Sidhu Nursing Home, Mansa, from where the driver of the trailer went away along with trailer. The dead body of his grandson was lying out side the Sidhu Nursing Home, on the stairs. The accident had been caused by Gurjant Singh driver by driving trailer No. RJ-31-G-1926, at a high speed. Legal action was sought.

4. ASI Roop Chand, after recording the above statement of the complainant made his endorsement thereunder and sent the same to the police station, for registration of the case. On the basis of this statement, the instant case registered. During the course of investigation, the investigation Officer conducted inquest proceedings, got the post mortem examination on the dead body conducted, inspected the spot, prepared the rough site plan of the place of occurrence with correct marginal note, got the photographs of the place of occurrence clicked. The trailer was got mechanically tested, statements of witnesses were recorded and accused was arrested. On completion of the investigation, the challan was presented for trial.

5. Based on the evidence led, the accused came to be convicted



CRR-2821-2009(O&M)

#4#

and sentenced by the court of Chief Judicial Magistrate, Mansa vide judgment and order of sentence dated 04.01.2008 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
304-A IPC	RI for 1 Year	Rs.10,000/-	RI for 03 Months

6. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge (Ad hoc), Fast Track Court, Mansa vide judgment dated 06.10.2009

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

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

9. 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 04.08.2002 and the case has come up for final hearing now after a gap of 22 years, the petitioner may be released on probation subject to payment of compensation.

10. The Counsel for the State on the other hand has filed a custody certificate of the petitioner dated 16.12.2024 and the same is taken on record. He contends that the evidence on record was sufficient to establish

**CRR-2821-2009(O&M)**

#5#

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.

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

12. 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.

13. 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



CRR-2821-2009(O&M)

#6#

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."*

14. 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



CRR-2821-2009(O&M)

#7#

the petitioner is reduced to the period already undergone by him i.e. 02 months and 17 days.

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

(JASJIT SINGH BEDI)
JUDGE

December 17, 2024
Jitesh

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