

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

CRR-1787-2016(O&M)

Date of Decision:-02.04.2024

Gora Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Dr. Sumati Jund, Advocate Amicus Curiae for the Petitioner.

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

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner-accused against the judgment dated 06.01.2015 passed by the Additional Sessions Judge, Sangrur whereby the judgment of conviction and order of sentence both dated 29.11.2014 passed by Judicial Magistrate Ist Class, Sangrur has been upheld.

2. The brief facts of the case are that on 05.05.2012 ASI Kashmir Singh alongwith HC Malkiat Singh, HC Rajinder Singh, PHG Malkit Singh were going on private vehicles, in connection with patrolling from village Ubhawal towards Sangrur road. When they reached near Maida Mill at revenue limits of village Badrukhan then complainant Puneet Thareja recorded his statement to ASI Malkit Singh to the effect that he was married with Swati Insaan around six months back. Pankaj Insaan was his brother-in-law. Pankaj Insaan used to collect milk from the village Qila Bharian and

sell the same in the city. Pankaj Insaan got married on 23.09.2011 with Shobha Insaan at Dera Sacha Soda Sirsa. Today he and his brother-in-law were going on their separate cycle from village Qila Bharian after settling the account of milk towards Sangrur on separate Bicycles. When they reached near Maida Mill Ubhawal Road at the revenue limit of village Badrukhan at about 6.15 PM, his brother-in- law was going ahead of him. He saw one truck being driven in rash and negligent manner. The said truck hit his brother-in-law Pankaj's cycle. The truck dashed into the bicycle of Pankaj. The truck came down the road and turned turtle on the driver side. He found that his brother-in-law had died at the spot. The truck driver ran from the spot. The truck No. was PB-13H-7203 LP and the driver's name was Gora Singh.

3. After the Trial concluded the petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Sangrur as under:-

Sr. No.	Offences under Section	Imprisonment	Fine	In default of fine imprisonment
1.	Section 304-A IPC	RI for 02 years	Rs.1000/-	RI for 01 Month
2.	Section 279 IPC	RI for 06 Months	—	—

Both the aforesaid sentences were ordered to run concurrently.

4. The petitioner preferred an appeal bearing Criminal Appeal No.96 of 20.12.2014 before the Court of Additional Sessions Judge, Sangrur, which came to be dismissed vide judgment dated 06.01.2015.

5. The aforementioned judgments are under challenge in the present revision petition.

6. The Amicus Curiae for the petitioner contends that the prosecution was not able to prove the case beyond reasonable doubt. There

was no evidence that the accident had occurred due to the rash and negligent driving on the part of the petitioner. No test identification parade had been conducted which created a doubt in the prosecution version. No independent witness was joined which creates a dent in the prosecution story. There were material contradictions and discrepancies in the statements of the prosecution witnesses. She, therefore, contends that the impugned judgments were liable to be set aside and the petitioner ought to be acquitted of the charges framed against him.

7. The Counsel for the State has placed on record custody certificate dated 01.04.2024 of the petitioner as per which he had undergone custody of 10 months and 16 days out of the awarded sentence of 02 years. He contends that the offence stands established beyond reasonable doubt. PW-2 complainant-Puneet Thareja has described in detail the manner in which the accident took place. PW-1 Dr. Jasjot Garcha has brought on record the post mortem report. The minor contradictions pointed out regarding the colour of the truck would be of little significance more so when the same was taken into police possession from the spot and the mechanical report would also establish that the truck had struck the deceased and has caused his death. He therefore contends that no fault could be found with the impugned judgments and the present petition was liable to be dismissed.

8. I have heard learned Counsel for the parties.

9. A perusal of the record would reveal that FIR came to be registered at the instance of PW-2 complainant-Puneet Thareja who is an eye witness of the occurrence. He has described the manner in which the occurrence took place and the rashness and negligence with which the driver drove the truck causing the death of the deceased. Ex.PH mechanic report

of the truck and Ex.PI mechanic report of the bicycle would show that the occurrence took place as has been suggested by the prosecution. The casue of death of Pankaj Insaan has been proved by PW-1 Dr. Jasjot Garcha and the post mortem report was brought on record as Ex.PW-2/B. The accused was duly identified by the complainant Puneet Thareja. The minor discrepancies in the colour of the vehicle would be of little significance in view of the fact that the truck and bicycle were both recovered from the spot and were both found to have been accidented.

10. In view of the above discussion, I find no ground to interfere with the well reasoned judgments of conviction and order of sentence recorded by the Judicial Magistrate Ist Class, Sangrur which have been upheld by Additional Sessions Judge, Sangrur. Resultantly, the revision petition stands dismissed.

11. 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."*

12. In the instant case, the occurrence is of the year 2012. The petitioner was granted the concession of suspension of sentence on 30.09.2016. As many as 12 years have elapsed ever since. The petitioner

seems to be a man of limited means in as much as this Court was constrained to appoint an Amicus Curiae to assist the court. Therefore, while upholding his conviction, I deem it appropriate to reduce his sentence to the period already undergone by him i.e. 10 months and 16 days. However, the sentence of fine and sentence in default of payment of fine shall remain intact.

12. The revision petition stand disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

April 02, 2024
Vinay

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