

**CRR-4726-2016****-1-****(292)****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRR-4726-2016 (O&M)
Date of Decision: 01.08.2024****MUNISH****... Petitioner****Versus****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Jitender Dhanda, Advocate
for the petitioner and
Mr. Arnav Sood, Amicus Curiae
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been preferred against the judgment dated 06.12.2016 passed by the Additional Sessions Judge, Jhajjar, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 14/16.12.2015 passed by the Addl. Chief Judicial Magistrate, Jhajjar, has been dismissed.

2. The brief facts behind the instant prosecution are that on dated 17.07.2012, a VT information regarding an accident having taken place at Kalanaur road, near JLN canal was received at Police Station Beri. Upon this, HC Rajesh Kumar reached at Civil Hospital, Jhajjar where the dead-body of one Ramphal son of Chandgi Ram was lying in the mortuary. HC Rajesh

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Kumar came across Roshanlal son of the deceased Ramphal, who got recorded his statement and the same is as under:-

"On dated 17.07.2012, he was present in his agricultural fields, near the JLN canal. His father Ramphal son of Chandgi Ram was coming to the agricultural fields, on his motorcycle of make TVS Star and bearing registration number HR14C-5626, at approximately 7.00 AM. At that time, he (Roshanlal) was present on the road. Ramphal was coming on the correct side of the road and reached near their agricultural fields. Suddenly, a Maruti car of silver colour of model Ritz, came driven in a rash and negligent manner and hit straight into the motorcycle of the father of complainant. The collision was so severe that the motorcycle of the father of complainant was dragged to a considerable distance and the father of complainant also received serious injury. The driver of the car abandoned the car and fled away from the place of occurrence. Upon notice, the temporary registration number of the offending car came to be known HR99MP[T]-4069. The complainant arranged a private vehicle and carried his father to Civil Hospital, Beri, where Ramphal succumbed to the injuries. Legal action was called against the offending driver of above car".

3. Upon this, a ruqa was sent for registration of FIR. Investigation proceeded. The place of occurrence was inspected and a site-plan with correct marginal notes was prepared. Inquest report regarding the dead-body of Ramphal was prepared. Post-mortem examination of the dead-body of Ramphal was got conducted. Photographs of the place of occurrence were taken. Relevant medical record was taken into police custody. Statements of witnesses were recorded under Section 161 of Cr.P.C. The accused was arrested. The offending vehicles along with relevant documents were taken



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into police custody. After completion of the necessary formalities, the final report under section 173 Cr.P.C was presented before the Court for initiation of trial.

4. A prima-facie case for commission of offences punishable under Sections 279 and 304-A of IPC was made out against the accused. So, the accused was accordingly charge-sheeted by the learned Predecessor of undersigned, on 29.01.2013, whereby the accused did not plead guilty and claimed trial.

5. In order to prove its case, the prosecution examined 10 witnesses namely, Dr. Mandal Manish, Krishan Kumar, Bhagat Singh, Roshanlal, Manjeet, Balwan Singh, Rajender Singh, Dharmpal, Rajesh Kumar and Surender Kumar.

6. The accused was examined under Section 313 Cr.P.C. wherein he denied the accusations against him and opted to lead defence evidence but did not.

7. On conclusion of the Trial, the petitioner came to be convicted and sentenced by the Court of Addl. Chief Judicial Magistrate, Jhajjar as under:-

Sr. No.	Under Sections	Sentence	Fine	In default
1.	279 IPC	RI for 06 months	--	--
2.	304-A IPC	RI for 01 ½ years	Rs.2000/-	Imprisonment for 01 month

Both the sentences were ordered to run concurrently.

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8. The petitioner preferred an appeal before the Court of Additional Sessions Judge, Jhajjar and the said appeal came to be dismissed by the Court of Additional Sessions Judge, Jhajjar vide judgment dated 06.12.2016.

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

10. The learned counsel for the petitioner contends that the impugned judgments of convictions were liable to be set aside as the same were based on conjectures and surmises without proper appreciation of the evidence on record. The complainant had been introduced as an eye-witness despite not having been at the scene. The medical evidence was contrary to the ocular account. He, 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.

11. On the other hand, the learned State counsel contends that the complainant/Roshanlal (PW4) has clearly deposed as to how the accident took place on account of the rash and negligent driving of the petitioner. The medical evidence of PW1-Dr. Mandal Manish was consistent with the ocular account. The mechanic reports did not leave any doubt that accident had taken place. Therefore, no fault could be found with the judgment of the Trial Court and the Lower Appellate Court convicting the present petitioner and the present revision petition was liable to be dismissed.

12. I have heard the learned counsel for the parties and examined the record.

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13. A perusal of the deposition of complainant/Roshanlal (PW4) showed that he has deposed in a consistent and believable manner. He has explained in detail as to how the accident had taken place on account of the rash and negligent driving of the petitioner. The version of the complainant finds corroboration from the medical evidence of PW1-Dr. Mandal Manish who conducted the postmortem of the deceased. The mechanic reports (Ex.PW1/A) pertaining to the Ritz Car bearing Registration No.HR99MP[T]4069 consistent with the prosecution version of an accident having been taken place.

14. In view of the aforementioned discussion, I find no reason to interfere with the well-reasoned judgments of the Trial Court dated 14/16.12.2015 as well as the Lower Appellate Court dated 06.12.2016. Therefore, the present petition stands dismissed.

15. As regards the imposition of sentence, this Court in the case of **Gurmukh Singh Versus State of Punjab, CRR-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



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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.

(emphasis supplied)



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16. In the instant case, the FIR pertains to the year 2012. The petitioner who is of the age of about 34 years has undergone 01 months and 18 days of his substantive sentence of 01 year. He is ready and willing to compensate the LRs of the deceased-Ramphal. Therefore, while upholding the conviction, I deem it appropriate to reduce the sentence of the petitioner as under:-

Sr. No.	Under Sections	Sentence	Fine	In default of payment of fine
1.	279 IPC	RI for 01 month and 18 days (actual period of custody undergone by the petitioner)	--	--
2.	304-A IPC	RI for 01 month and 18 days (actual period of custody undergone by the petitioner)	Rs.2,00,000/-	RI 01 ½ Years

17. The amount of fine of Rs.2,00,000/- to be paid by the petitioner shall be disbursed to the LRs of the deceased as compensation.

(JASJIT SINGH BEDI)
JUDGE

01.08.2024
JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No