

**CRR-3372-2018 (O&M)****-1-****(248)****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRR-3372-2018 (O&M)
Date of Decision: 15.05.2024****RISHI PAL****... Petitioner****Versus****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI****Present: Mr. Arshdeep Singh Brar, Amicus Curiae
for the petitioner.****Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.************JASJIT SINGH BEDI, J.**

The present revision petition has been preferred against the judgment dated 20.08.2018 passed by the Sessions Judge, Kaithal whereby the order acquitting the petitioner dated 11.07.2016 passed by the JMIC, Kaithal has been set aside.

2. The brief facts of the case are that an FIR No.28 dated 09.02.2013 under Sections 279, 337, 427, 304-A, 338 of the IPC, Police Station Rajound came to be registered at the instance of Inderjit Singh son of Gurdayal Singh. It was alleged that on 09.02.2013 he along with his wife Paramjeet Kaur, his son Harman and others were going to village Thari from Bhatia on a Tavera Car bearing No.PB-11AX 9401. The vehicle was being driven by Jassi. At around 1.30 PM, a truck bearing No.HR56 8728 which was being driven by its driver at a high speed in a rash and negligent manner came from the Kichhana side and hit their car directly. A number of persons

suffered injury. The driver of the offending vehicle fled away from the spot. While he (complainant) was admitted at Civil Hospital, Kaithal, his wife Paramjeet Kaur and Sahajpreet, daughter of Malkeet succumbed to their injuries.

3. Based on the FIR, the report under Section 173(2) Cr.P.C. was submitted and on conclusion of the Trial, the petitioner came to be acquitted by the Court of JMIC, Kaithal vide judgment dated 11.07.2016.

4. The complainant-Inderjit Singh filed an appeal before the Court of Sessions Judge, Kaithal. Vide judgment dated 20.08.2018, the order of acquittal was set aside and the petitioner was convicted and sentenced as under:-

Sr. No.	Under Sections	Sentence
1.	337 IPC, 1860	SI for one month
2.	338 IPC, 1860	SI for two months
3.	304-A IPC, 1860	RI for one year

5. The instant revision petition has been filed against the aforementioned judgment of conviction.

6. The learned Amicus Curiae for the petitioner contends that the JMIC, Kaithal had rightly observed that the prosecution had miserably failed to prove the guilt of the petitioner beyond reasonable doubt. The Sessions Judge, Kaithal had failed to appreciate that no Test Identification Parade had been held. This was important as the petitioner was not known to the witnesses earlier and it was the case of the prosecution that the driver of the offending vehicle fled away from the spot and was apprehended later. There

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was no evidence to suggest that the petitioner had been driving in a rash and negligent manner. In fact, it was the Tavera Car which was overloaded because of which the occurrence taken place. There were several contradictions in the statements of the material witnesses which had not been appreciated properly by the Appellate Court. He, therefore contends that the judgment of conviction was liable to be set aside and the petitioner ought to be acquitted of the charges framed against him.

7. On the other hand, the learned State counsel contends that the evidence on record was sufficient to establish the culpability of the petitioner. PW2-complainant had duly identified the accused/petitioner and had disclosed the registration number of the truck in question. He had stated that the truck was being driven in a rash and negligent manner when it struck the Tavera. Merely because 14 to 16 persons were sitting in the Tavera would not be indicative of the rash and negligent driving on the part of the driver of the Tavera. Further, only because of the report of the mechanical expert showed that the rear tyre of the Tavera vehicle had burst was not sufficient to grant benefit to the petitioner or to establish contributory negligence. He, therefore contends that no fault could be found with the judgment of the Lower Appellate Court convicting the petitioner.

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

9. The deposition of PW2/complainant-Inderjit Singh would show that he had duly identified the accused and disclosed the registration number

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of the truck in question. He also stated that the truck was being driven in a rash and negligent when it struck the Tavera. Jassi/PW9, the owner and driver of the vehicle make Tavera bearing Registration No.PB-11AX 9401 has also categorically stated that on the date of the occurrence, the accident had taken place on account of the fault on the part of the driver of the truck. He also identified the driver of the truck (petitioner) in Court. The suggestion given to this witness was that the accident had taken place on account of his mistake. There is no suggestion that the accident did not take place. Therefore, even the defence has admitted in no uncertain terms that the accident did take place. Similarly, PW-12 and PW-13 have clearly identified the petitioner to be the driver of the offending vehicle. Merely because no Test Identification Parade was held would not be of any significance as has been held in the case of **Ravi Kapur Vs. State of Rajasthan, 2012 AIR (SC) 2986** as per which first-time identification is a good identification in the eyes of law.

10. In view of the aforementioned discussion, I find no fault in the well-reasoned judgment of the Lower Appellate Court convicting the petitioner. Therefore, the present revision petition stands dismissed.

11. 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 :



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(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.

(emphasis supplied)

12. Admittedly, the occurrence pertains to the year 2013. The petitioner was acquitted by the Trial Court but came to be convicted in appeal in August, 2018. He filed the instant revision petition and his sentence was suspended on 06.10.2018. A perusal of his custody certificate would show that he does not have any criminal antecedents.

13. In view of the above, while dismissing the instant revision petition, I deem it appropriate to modify and reduce the sentence as under:-

Sr. No.	Under Sections	Sentence
1.	337 IPC, 1860	SI for one month
2.	338 IPC, 1860	SI for one month
3.	304-A IPC, 1860	RI for 06 months

14. All the sentences are ordered to run concurrently.

(JASJIT SINGH BEDI)
JUDGE

15.05.2024
JITESH

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