

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRR-608-2025 (O&M)

Date of decision: 29.09.2025

Jawahar Lal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Amit Chaudhary, Advocate for the petitioner.
Ms. Shweta Nahata, DAG, Haryana.

1. Instant revision petition has been preferred against judgment dated 27.02.2025 passed by learned Sessions Judge Fatehabad, upholding the judgment of conviction dated 16.07.2021 vide which the petitioner was convicted for the commission of offence under Sections 279,304-A IPC. Vide order of sentence dated 20.07.2021, the petitioner was sentenced in the following terms:

*“For the offence punishable under Section 279 IPC, the convict is sentenced to undergo simple imprisonment for the period of six months and a fine of Rs.1000/-. In default of payment of fine, the convict shall further undergo SI for a period of one month;
For the offence punishable under Section 304-A of IPC, the convict is sentenced to undergo simple imprisonment for the period of one year and a fine of Rs.1000/-. In default of payment of fine, the convict shall further undergo SI for a period of one month.”*

All the sentences were ordered to run concurrently.

Factual background

2. On 02.06.2016, ASI Rajpal along with constable HC Sehdev was present at Jadli Kalan in connection with crime and patrolling duty, when MHC intimated them about death of Mahinder Singh, son of Mann Singh on account of

having suffered injuries in a roadside accident. Police officials were further requested to receive the ruqa from police post, Government Hospital. Immediately thereafter, both ASI Rajpal and HC Sehdev reached hospital and collected ruqa (Ex.PW6/B) and met Sh. Raj Kumar (PW2, uncle of deceased), who lodged a complaint (Ex.PW1/A) pointing therein that he along with his cousin brother Mahinder (since deceased) had gone to Tehsil Bhuna in connection with their personal work. At about 4.00 PM, the two of them had started back for their native village Chandrawal, on their separate motorcycles. His cousin brother Mahinder was driving motorcycle No. HR 12-B 8966 at moderate speed, in accordance with road safety norms and was little ahead of him. When they reached about four kms ahead of Bhuna, they saw a private bus No.HR 62-3321 coming from Fatehabad side, which was being driven in a rash and negligent manner and at high speed. On account of reckless driving, the driver of the bus lost control over his vehicle and collided straight into the motorcycle being driven by Mahinder. Consequent thereto, Mahinder fell down on the road and suffered serious multiple injuries. Without losing time, arrangements were made and injured was rushed to Government Hospital, Fatehabad. Unfortunately, however, Mahinder died, while in the Hospital.

3. Complainant also mentioned in the complaint that inquiries at his own level revealed that Jawahar Lal @ Leela, son of Lekh Ram was driving the bus at the relevant time, on account of whose reckless driving, the accident occurred and Mahinder died. Towards the end, he also requested the police officials to catch hold of Jawahar Lal as also to initiate appropriate criminal proceedings against him. On the basis of said statement, a formal case vide FIR (Ex.PW1/C) No.201 dated 02.06.2016 was registered. Investigations were set into motion during which Investigating Officer visited the site, prepared the site plan (Ex.PW1/G), got the photographs (Ex.PW1/H1 to 12) clicked, MLR (Ex.PW6/A) was collected,

inquest proceedings (Ex.PW1/F) under Section 174 Cr.P.C were conducted, after getting the post mortem conducted, the dead body was handed over to the relatives for last rites. During the further course of investigation, accused Jawahar Lal (petitioner herein) was arrested on 05.06.2016 vide memo Ex.PW1/K, and was got medicolegally examined, RC and Insurance Policy of the offending vehicle were also taken into possession vide Ex.P1 and P3 respectively, DL of the accused was also collected vide Ex.P2. Both, the bus in question bearing No.HR 62 3321 and motorcycle No. HR 12-B 8966 were got mechanically examined. Statements of relevant witnesses were recorded at various stages of investigation. On culmination thereof, challan was presented. Copy thereof was supplied to the accused free of costs, as per Section 207 Cr.P.C.

4. On finding a prima facie case against him, accused was charge sheeted under Section 279,304-A IPC by learned Magistrate vide order dated 06.09.2016. Accused pleaded not guilty and claimed trial.

5. So as to prove the guilt of the accused, prosecution examined as many as following nine witnesses :

- i) Complainant and related witnesses (Raj Kumar-PW2)
- ii) Witnesses related with the investigation (PSI Rajpal-PW1, HC Sehdev-PW7 & ASI Birbal-PW9)
- iii) Formal witnesses
 - a) (Satbir Singh-PW3, who had identified the dead body of Sh. Mahinder Singh),
 - b) (Mann Singh-PW4 who had identified the dead body vide PW4/A),
 - c) ASI Dharampal, PW5, who had recorded FIR (Ex.PW1/C) after making his endorsement Ex.PW1/B on complaint Ex.PW1/A.
 - d) ASI Vijaypal-PW8 who had mechanically examined the Bus No.HR 62 3321 and motorcycle No. HR 12-B 8966 and had given his report Ex.PW8/A and Ex.PW8/B respectively.
- iv) Medical witness (Dr. Kamal Beniwal-PW6, who at the relevant time was posted as GH, Fatehabad and had medicolegally examined the injured vide

Ex.PW6/A and had sent ruqa Ex.PW6/B & C to the police officials intimating them about the arrival of the injured and death of the injured.

6. After completion of prosecution evidence, statement of the accused under Section 313 Cr.P.C was recorded vide which entire incriminating material adduced on the case file by prosecution, was put to him in question, answer form. He denied his involvement and pleaded false implication.

7. No evidence, either oral or documentary was led by accused.

8. Learned trial Magistrate after hearing, both the learned PP for the State as also learned counsel for the accused and taking note of the evidence adduced on the case file convicted and sentenced the accused in aforementioned terms as mentioned in para 1 of the judgment. Aggrieved of which, accused filed an appeal before the learned Sessions Judge, Fatehabad, which also came to be dismissed vide judgment dated 27.02.2025.

9. Assailing the concurrent findings of conviction by way of present revision petition, learned counsel for the petitioner contends that both the courts below failed to appreciate the evidence on the case file, in correct perspective resulting in grave injustice to the petitioner. Continuing further, learned counsel further submits that prosecution failed to establish the identity of the accused beyond reasonable doubt, which fact stands established in the light of specific admission made by I.O that no Test Identification Parade was got conducted. Further as per learned counsel, PW2-Raj Kumar was introduced later only with a view to strengthen the case of prosecution. He was, in fact, not present at the site. Moreover, his stand that he was the one, who had got his cousin Mahinder Singh admitted in the hospital, also remains unproved, for, in the MLR, the Doctor on duty noted that the injured was accompanied by Satbir-PW3. Further, contradiction in the testimony of various prosecution witnesses was also not taken note of, either by the learned trial Judge or the learned Sessions Judge. In the

light of above submissions, it has been prayed that conviction deserves to be set aside.

10. In the alternative, learned counsel for the petitioner submits that the accident having occurred way back in 2016, petitioner having faced the agony of the proceedings for the last approximately nine years has already undergone custody period of six months, so taking a lenient view of the matter, he be sentenced to the imprisonment for the period already undergone by him, moreso when he is not involved in any other case of criminal nature.

11. Per contra, learned State counsel has opposed both the prayers on the ground that the courts below, only after carefully scrutinizing the evidence on record convicted the petitioner. Further, the fact that only on account of rash and negligent driving on the part of petitioner, a young life was taken away, no case for taking a lenient view in favour of the petitioner is made out.

Analysis and Observation:

12. Both the learned counsel for the petitioner and learned State counsel have been heard. Documents on the record have been carefully perused.

13. As noted hereinabove, the proceedings in the present case were initiated on the basis of complaint (Ex.PW1/A) of Raj Kumar-PW2, who in the said complaint as also while appearing in the witness box as PW2 elaborated upon the sequence of events that led to the accident on the day in question. His consistent stand is that after winding up their work from Tehsil office, Bhuna, he and his cousin brother Mahinder (since deceased) started for their village Chandrawal on separate motorcycles. Mahinder was driving motorcycle (make Hero Honda) No.HR 12 B 8966 at a moderate speed and in compliance of road safety norms. He (PW2) was following his cousin brother. When they had covered distance for about 4 kms, they saw a private bus bearing registration No.HR 62 3321 coming from the opposite direction which was being driven by

the driver, in rash and negligent manner in complete violation of traffic norms. The driver of the bus came on the road side, lost control over the vehicle and hit into the motorcycle being driven by Mahinder, who as a consequence thereof fell down and suffered multiple serious injuries. Immediately thereafter, the injured was rushed to the hospital, where unfortunately, he (Mahinder) died during the treatment. It further emerges from his testimony that during the course of investigation, site plan (Ex.PW1/G) was prepared by the I.O on his demarcation, who also took into possession both the vehicles. It has been noticed that during cross examination, this witness (complainant Raj Kumar) admitted that immediately after accident, accused had fled away from the spot and he himself being busy in taking care of his injured brother could not chase or catch hold of the accused, as also that no TIP was got conducted by the I.O in his presence, but these admissions, by themselves do not weaken the case of prosecution, for the reason that in the present case, FIR was lodged without any delay on the same day by mentioning specifically the name of the driver of the bus, on account of whose rash and negligent driving the accident had occurred. Further, while appearing as PW2-Raj Kumar identified the accused as being the driver of the offending bus on the day in question.

14. Law is no longer *res integra* that TIP is no substantive evidence. It is a settled proposition of law that the identification parade of the accused before the court of law is not the only main and substantive piece of evidence, but it is only a corroborative piece of evidence. The purpose of holding a test identification parade during the stage of investigation is, firstly, to ensure that the investigating agency is proceeding in the right direction where the accused is unknown and, secondly, to serve as a corroborative piece of evidence when the witness identifies the accused during trial. The evidence of identification merely corroborates and strengthens the oral testimony in court which alone is the primary and substantive

evidence as to identity. Therefore, the absence of TIP may not be ipso facto sufficient to discard the testimony of a witness who has identified the accused in the Court.

15. From the testimony of PW2, the identity of the accused as being the driver of the offending bus, stands established. It would also be appropriate to point out that simply because in the MLR (Ex.PW6/A) the name of the person accompanying the injured has been mentioned as Satbir-PW3 would also not be a ground to presume that PW2-Raj Kumar was introduced later and that he had not actually witnessed the accident. As has rightly been observed by learned Sessions Judge, even from the testimony of Investigating Officer, PSI-RajPal (PW1), it is apparent that PW2-Raj Kumar was present in the hospital.

16. Photographs appended along with the case file further dislodge the stand of the accused-petitioner that Mahinder died on account of falling from motorcycle. In these photographs, both the bus No.HR 62 3321 and the motorcycle No.HR12 B 8966 being driven by deceased Mahinder can be seen struck against each other.

17. It has also been noticed that the Doctor who prepared the post mortem examination report was not examined by the prosecution, however, it needs to be pointed here that learned trial Court made best efforts to procure presence of Dr.Dilpreet Kaur but was unsuccessful as the Doctor was absent from duty. Moreover, Doctor Kamal Beniwal while appearing as PW6 proved medical documents. His statement when read in conjunction with the other evidence on record clearly establishes that Mahinder son of Mann Singh who was admitted in General Hospital, Fatehabad on 02.6.2016 on account of having suffered injuries in roadside accident, died on account of the same later on the same day. The courts fail to understand as to how on account of mere non examination of the Doctor who conducted post mortem examination, any prejudice has been caused

to the petitioner. Most importantly, petitioner has not been able to point out any reason for his false involvement in the case.

18. After carefully going through the impugned judgment of conviction as recorded by the learned trial Court and as affirmed by the Appellate Court and also after going through the entire evidence adduced during the course of proceedings, this Court does not find any illegality in the said judgments warranting any interference in exercise of revisional jurisdiction.

19. Now, so far as the alternate prayer of learned counsel for the petitioner that the order of sentence be modified to that of period already undergone, is concerned, appropriate here would be to refer to a judgment of Hon'ble Supreme Court, wherein Hon'ble Supreme Court in a case titled as **State of Haryana vs. Janak Singh, AIR 2013, SC 3246**, has held as under:

“10.....It was open for the respondents to press the appeals on merits and pray for acquittal. Had the case been argued on merits, the High Court could have acquitted the respondents if it felt that the prosecution had not proved its case beyond reasonable doubt. Assuming the respondents did not press the appeals, the High Court had to still consider whether the concession made by the counsel was proper because it is the duty of the court to see whether conviction is legal. But, once the respondents stated that they did not want to press the appeals and the High Court was convinced that conviction must follow, then, ordinarily it could not have reduced the sentence to the sentence already undergone by the respondents which is below the minimum prescribed by law. The High Court could have done so only if it felt that there were extenuating circumstances by giving reasons therefor. While reducing the sentence, the High Court has merely stated that it was “just and expedient” to do so. These are not the reasons contemplated by the proviso to Section 376(1) of the Indian Penal Code. Reasons must contain extenuating circumstances which prompted the High Court to reduce the sentence below the prescribed minimum. Sentence bargaining is impermissible in a serious offence like rape.

Besides, at the cost of repetition, it must be stated that such a course would be against the mandate of Section 376(1) of the IPC.”

20. Further, Hon’ble Supreme Court in its judgment reported as **Ravada Sasikala vs. State of AP, AIR 2017 SC 1166** has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

21. In its judgment titled as **Gobind Singh vs. State of Haryana, decided on 09.01.2024**, it was held that a coordinate Bench of this Court as under:

“A perusal of the ratio decidendi culled out in the above mentioned judgments of the Hon’ble Supreme Court indicates that in order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformative.”

In so far as the facts of the present case are concerned, FIR was lodged in 2016. Petitioner has suffered the agony of trial for almost nine years. He is not involved in any other criminal activity after his conviction in the present case and during the pendency of the present revision petition, there are no other criminal case pending against him. Out of substantive sentence of one year and six months, the petitioner has already undergone actual sentence of six months and three days. Accordingly, this court is of the opinion that it would be in the interest of justice if the substantive sentence of one year and six months awarded to the petitioner is reduced to the period already undergone by him.

22. Consequently, the present revision petition is disposed of in the following terms:

i) Judgment of conviction dated 16.7.2021 passed by learned JMIC, Fatehabad vide which the petitioner was convicted for commission of offence punishable under Sections 279,304A IPC is upheld, however the order of sentence dated 20.07.2021 passed by learned JMIC is modified to the extent that substantive sentence of RI for one and half years awarded to petitioner is reduced to the period of sentence already undergone by him.

ii) However, sentence of fine of an amount of Rs.2000/- shall remain intact. Petitioner is directed to deposit the amount of fine, if not already paid in the trial Court within one month from the date of receipt of certified copy of the order and in case of default of payment of fine, he shall be taken into custody and made to undergo simple imprisonment for one month. Bail bonds/surety bonds stand discharged.

23. Petitioner be released from custody forthwith, if not required in any other case.

Any other application(s), if any, shall also stand disposed of.

29.09.2025
manoj

(AARADHNA SAWHNEY)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No