

2025:PHHC 003373



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

CRR-661-2007(O&M)

Date of Decision:-13.01.2025

Gurmit Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Dolly Sharma, Advocate
Amicus Curiae 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 05.04.2007 passed by Sessions Judge, Faridkot whereby the appeal filed against the judgment of conviction and order of sentence dated 06.01.2007 passed by Additional Chief Judicial Magistrate, Faridkot has been dismissed.

2. The FIR in the present case came to be registered on 04.02.2001. The judgment of conviction was passed on 06.01.2007 by the Additional Chief Judicial Magistrate, Faridkot. The Appeal filed against the order of conviction was dismissed on 05.04.2007 by the Sessions Judge, Faridkot. The instant revision petition was filed on 16.04.2007 and has come up for final hearing now i.e. after a period of 23 years from the date of

registration of the FIR.

3. None was appearing on behalf of the petitioner on the last two dates of hearing and similar was the situation today also. Ms. Dolly Sharma, Advocate PH/5749/2002 present in Court is hereby appointed as Amicus Curiae to assist this Court on behalf of the petitioner on payment of fee as per norms.

4. As per the prosecution version the complainant Gurtej Singh, his brother Hardev Singh, since deceased and Jagjit Kaur wife of Hardev Singh were going towards Kotkapura on the bus in question belonging to Raj Transport Company. The complainant Gurtej Singh and his sister-in-law had some domestic work to dispose of at Kotkapura, The bus in question was being driven by accused-Pardaman Singh and the other accused/petitioner-Gurmit Singh was its Conductor. It is alleged that when they reached near the brick kiln of Sadhu Ram in the area of village Laleana, the bus driver stopped the bus and a few passengers got down from the bus. When Hardev Singh was in the process of getting down from the bus, the Conductor blew the whistle and the driver accelerated the bus. Hardev Singh tumbled down, fell on ground and was run over under the rear tyres of the bus. The complainant Gurtej Singh raised a *raula* whereupon the bus driver stopped the bus. One Satish Kumar shopkeeper of village Laleana was also travelling in the same bus. Gurtej Singh and Satish Kumar carried the injured Hardev Singh to the Civil Hospital, Kotkapura, where he died. His death in the road accident was a result of the rash and negligent act on the part of Pardaman Singh and Gurmit Singh- accused, who were the Driver and Conductor respectively of the bus in question.

5. The challan against the accused was presented in the Court of Additional Chief Judicial Magistrate, Faridkot on 31.08.2002. The Trial

Court framed a charge against the accused Sections 279/304-A of the Indian Penal Code, to which the accused pleaded not guilty and claimed trial.

6. In support of its case, the prosecution examined Head Constable Baljit Singh as PW1 in whose presence the offending vehicle was taken into possession by ASI Jit Singh, vide recovery memo Ex.PA. He accompanied the dead body the hospital for getting the post mortem conducted upon it. PW2 is LC Sukhmander Singh in whose presence, the Conductor's licence and driver's driving licence were taken into possession by ASI Jit Singh, vide recovery memo Ex.PB. PW3 Gurtej Singh is the complainant as well as eye witness who narrated the detail of the occurrence. PW4 Jagjit Kaur is an eye witness to the occurrence. She is the wife of Hardev Singh, since deceased and corroborated the version given by the other eye witness PW3 Gurtej Singh. PW5 Jit Singh is the Investigating Officer, who proved the different documents prepared during the investigation of the case. Thereafter the prosecution closed its evidence.

7. The statement of the accused-persons were recorded under Section 313 of the Criminal Procedure Code by the learned Trial Court. The accused denied the correctness of the prosecution version and prosecution evidence appearing against them and contended that they were innocent and were not rash or negligent. In defence, the accused examined DW1 Dharam Pal Traffic Manager, Raj Transport Company Pvt. Ltd., Amritsar, who only stated that the Raj Transport Company had no stoppage at Laleana (where the occurrence is stated to have place). Thereafter the accused closed their evidence.

8. Based on the evidence led, both the accused came to be convicted and sentenced by the court of Additional Chief Judicial Magistrate, Faridkot vide judgment and order of sentence dated 06.01.2007

as under:-

Offence Section	under	Sentence RI/SI	Fine	RI/SI in default of payment of fine
304-A IPC		RI for 1 Year	Rs.1000/-	RI for 01 Month
279 IPC		-	Rs.500/-	RI for 15 Days

9. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Sessions Judge, Faridkot vide judgment dated 05.04.2007.

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

11. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 21.08.2007.

12. The counsel for the accused/petitioner contends that the accused/petitioner was simply a conductor of the bus and could not be held guilty under Section 304-A IPC as he had got nothing to do with the driving of the bus. He was simply sitting on the back seat whereas Hardev Singh deceased had got down from the bus through the front seat. The liability, if any, would be of the driver of the bus, namely, accused-Pardaman Singh (sentence already undergone). 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 2001 and the case had come up for final hearing now after a gap of 23 years, the accused/petitioner may be released on probation subject to payment of compensation.

13. The Counsel for the State on the other hand has filed a custody certificate of the accused/petitioner dated 02.11.2024 and the same is taken on record. He contends that it was the duty of the conductor of the bus to ensure that he would whistle or signal to the driver to drive away only once

he had ensured that no passenger was getting into or getting down from the bus. His act of blowing the whistle without first considering as to whether any passenger was getting in or out the bus, led to the deceased being crushed under the tyres of the bus and, therefore, his guilt stood established beyond reasonable doubt.

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

15. As per the case of the prosecution, the accused/petitioner blew the whistle on the basis of which driver Pardaman Singh accelerated the bus. Hardev Singh who was in the process of getting down from the bus was run over under the rear tyres of the bus in question. Apparently, it was the duty of the bus conductor to ensure that he blew the whistle so as to signal the driver to accelerate the bus only when he was sure that no passenger was getting into or getting down from the bus. His act of blowing the whistle without due care speaks of his rash and negligent act. Correspondingly, the driver of the bus, also ought to have considered the fact that Hardev Singh was getting off the bus when he drove away. Therefore, it is the duty of the driver and conductor of the bus to ensure before proceeding that the passenger had either got on or off the bus in a safe and sound manner and only then to drive away. Thus, 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.

16. 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.”*

17. Admittedly, the occurrence pertains to the year 2001 and as many as 23 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 the accused/petitioner is reduced to the period already undergone by him i.e. 04 months and 22 days.

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

(JASJIT SINGH BEDI)
JUDGE

January 13, 2025

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>