

2025:PHHC:031673



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

CRR-105-2008(O&M)

Date of Decision:-06.03.2025

Suresh Kumar.

.....Petitioners.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Digvijay Singh Nehra, Advocate
as Amicus Curiae for the Petitioner.

Mr. Viney Phogat, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 22.12.2007 passed by Sessions Judge, Karnal whereby the appeal filed against the judgment of conviction and order of sentence dated 17/22.03.2006 passed by Additional Chief Judicial Magistrate, Karnal has been dismissed.

2. The FIR in the present case came to be registered on 27.07.1999. The judgment of conviction was passed on 17/22.03.2006 by the Additional Chief Judicial Magistrate, Karnal. The Appeal filed against the order of conviction was dismissed on 22.12.2007 by the Sessions Judge, Karnal. The instant revision petition was filed on 21.01.2008 and has come up for final hearing now i.e. after a period of 25 years from the date of registration of the FIR.

3. The brief facts of the case are that on 27.7.1999 Satbir Singh (PW3) and Krishan Lal (PW5) were going on their bi-cycles from their village Dhaman Kheri to their shop. Naresh Kumar son of Gulab Ram, was also paddling his bi-cycle ahead of them. At about 8.15 a.m., when they reached near Bajaj Market, Indri, near the bridge of drain of dirty water and started going towards Garhi Birbal road, then one bus no. HR-07-9082 of Haryana Roadways, Kurukshetra came from the side of Matak Majri. The driver of the bus was driving it at a high speed and in a rash and negligent manner. It struck against the bi-cycle of Naresh Kumar. After causing the accident the driver of the bus left the bus at the spot and fled. Later on the name of the driver came to be known as Suresh Kumar son of Kailash Bhushan, resident of House No. 1439/16, Rishi Nagar, Karnal. As a result of the accident Naresh Kumar lost consciousness. Satbir Singh and Krishan Lal brought him to Govt. Hospital, Indri from where he was referred to Govt. Hospital, Karnal where he succumbed to his injuries. Head Constable Ram Parkash (PW2) received a ruqa Ex.P8 from Community Health Centre, Indri about the admission of Naresh Kumar. He reached Govt. Hospital, Karnal and obtained one ruqa Ex.PC. Satbir Singh met PW2 Head Constable Ram Parkash and he recorded his statement Ex.PD on the basis of which formal FIR Ex.PE was registered by ASI Varinder Singh. Head Constable Ram Parkash inspected the dead body and prepared inquest report Ex.PG. An application was made for post-mortem examination on the dead body of Naresh Kumar. Head Constable Ram Parkash also prepared a rough site plan Ex.P1 of the scene of occurrence. PW7 Kadam Singh photographer was called and he took the snaps of the scene of accident. Bus HR-07-9082 of Haryana Roadways alongwith the damaged bi-cycle were taken into possession vide memo Ex.P5. On 28.7.1999, Suresh Kumar driver produced

the registration certificate of the bus vide memo Ex.PK. One route duty certificate was also taken from the Duty Clerk of Haryana Roadways which was seized vide memo Ex.P2. The accused was arrested. After completion of the investigation and other usual formalities, the challan was presented in the court.

4. Charge for the offences punishable under sections 279/304A of the Indian Penal Code was framed against the accused to which he pleaded not guilty and claimed trial.

5. The prosecution examined seven PWS in all namely PW1 Dr. Surinder Katyal, PW2 Ram Parkash Head Constable, PW3 Satbir Singh, PW4 Ishwar Singh, PW5 Krishan Lal, PW6 Gulaba and PW7 Kadam Singh, photographer. PW8 Head Constable Suresh Kumar and Prem Chand were given up as unnecessary.

6. In his statement under section 313 Cr.P.C. the accused pleaded false implication. However, he did not lead any evidence in his defence.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Additional Chief Judicial Magistrate, Karnal vide judgment and order of sentence dated 17/22.03.2006 as under:-

Offence under Section	Sentence	Fine	RI/SI in default of payment of fine
Section 279 IPC	03 Months	-	-
Section 304-A IPC	01 Year	-	-

Both the aforesaid sentences were ordered to run concurrently.

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Sessions Judge, Karnal, vide judgment dated 22.12.2007.

9. The aforementioned judgments are under challenge in the

present petition.

10. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 22.01.2008.

11. The learned counsel for the petitioner contends that the judgments of conviction are based on conjectures and surmises. There is no evidence as to how the identity of the accused was established. The offence under Section 304-A IPC is not made out as there was no evidence of the rash and negligent driving by the accused. There were discrepancies in the statements of witnesses which creates a doubt in the prosecution version in its entirety. 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 1999 and the case had come up for final hearing now after a gap of 25 years, the accused/petitioner may be released on probation or his sentence be reduced to the period already undergone by him subject to payment of compensation.

12. The Counsel for the State on the other hand has placed on record the custody certificate dated 06.03.2025. He contends that the identity of the accused has been established beyond doubt. The prosecution witnesses have deposed consistently as to how the accident took place and the rash and negligent driving on the part of the accused. He, therefore, prays that the present petition was liable to be dismissed.

13. I have heard counsel for the parties.

14. So far as the question of the identity of the accused is concerned, it is significant to note that the name, parentage and address of the accused are clearly mentioned in the statement Ex.PD made by Satbir Singh on the basis of which the FIR was registered. When Satbir Singh was

examined as PW3, no question was put to him in cross examination on the question of source of his information about the name, parentage and address of the accused. Had he been cross examined he might have explained about the source of such information. PW4 Ishwar Singh, another eye witness of the occurrence, categorically deposed that on the day of the accident, the accused present in the court room was coming from the side of Barhi Birbal and the bus was being driven at a high speed. He deposed that the driver of the bus suddenly swerved towards the Mandi due to which cyclist came beneath the bus, received injuries and died in the hospital. No suggestion was put to him that bus HR-07-9082 was not being driven by the accused present in the court. On the other hand, the suggestion that was put to him was that the accident had taken place on account of the fault of the cyclist who all of a sudden came before the bus. In other words, there is a tacit admission by the accused that it was he who was driving the bus HR-07-9082 and that the accident took place on account of the fault of the cyclist. Apart from this, the prosecution also examined PW5 Krishan Lal who also stated that bus HR-07-9082 was being driven by Suresh Kumar accused present in the court. Again no such suggestion was put to him that the accused was not driving the bus in question. To cap it all, bus HR-07-9082 belongs to Haryana Roadways Kurukshetra Depot and the same can be driven only by a driver employed by Haryana Roadways. The accused is admittedly a driver employed in Haryana Roadways. PW2 Head Constable Ram Parkash, investigating officer, obtained an extract from the Daily Route Register of conductors and drivers which was taken into possession vide memo Ex.PL. The copy of recovery memo Ex. PL shows that Suresh Kumar No.SPL-13 was driver of Bus HR-07-9082 of Haryana Roadways Depot Kurukshetra and one Prabhu Dayal SPL-14 was its conductor. It is not the

case of the accused that he was on duty on some other bus on the relevant date. It is noteworthy that when PW7 Kadam Singh, photographer went to click the photographs, bus HR-07-9082 was found standing at the scene of accident. Photographs Ex.PW7/A to Ex.PW7/D show the presence of bus HR-07-9082 and the damaged bi-cycle at the spot. These facts taken cumulatively leave no doubt that bus HR-07-9082 was being driven by the accused on the date of the accident and the accident was caused with Naresh Kumar, deceased by him.

15. As regards evidence of rash and negligent driving the statement Ex.PD made by Satbir Singh to the police shows that accused was driving the bus HR-07-9082 at a high speed and in a rash and negligent manner. It struck against the bi-cycle of Naresh Kumar due to which he received injuries and he was taken to the hospital where he died. When Satbir Singh came in the witness box as PW3 he categorically deposed that when at about 8.15 a.m. he alongwith Krishan Lal reached the bridge of dirty water 'Nallah', one bus came from the side of Matak Majri at a high speed. That bus struck against Naresh Kumar and he was entangled between both the tyres of the bus alongwith his bi-cycle. He deposed that driver of the bus fled after coming out from the bus. He also deposed in unambiguous terms that the accident took place due to the fault of the bus driver. Similarly PW4 Ishwar Singh, another eye witness of the occurrence, also deposed that bus HR-07-9082 was being driven by accused present in the court and it was coming from the side of Garhi Birbal. The cyclist was coming from the side of Dhaman Heri village and the driver of the bus abruptly swerved the bus towards Grain Market due to which the cyclist came beneath the bus and received multiple injuries and his bi-cycle was also damaged. Later on the cyclist died in the hospital. He also deposed in his cross examination that the

bus was being driven at a high speed. Similarly PW5 Krishan Lal, another eye witness of the occurrence, also deposed that the accident took place due to the fault of the accused because he was driving the bus at a high speed and negligently. Rashness and negligence is to be inferred from the circumstances on record because the witnesses may tell a lie but the circumstances do not. In the instant case, there is concrete evidence on the file which shows that accused was driving bus HR-07-9082 at a high speed without bothering about the traffic on the road. It was on account of his fault that Naresh Kumar cyclist alongwith his bicycle was entangled in the wheels of the bus and was dragged for some distance. The accused did not examine even a single passenger of the bus or any inhabitant of that area in his defence who could say that the accident occurred on account of the fault of the cyclist. PW3 Satbir Singh, PW4 Ishwar Singh and PW5 Krishan Lal had no motive to depose falsely against the accused. Statements of all these PWs establish rash and negligent driving on the part of the accused resulting into the accident with Naresh Kumar who was paddling a bicycle and who ultimately died in the hospital on account of the injuries sustained in the said vehicular accident.

16. In view of the above discussion, I find no merit in the petition and the same stands dismissed.

17. 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 afore said 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.”*

18. Admittedly, the occurrence pertains to the year 1999 and as many as 25 years have passed ever since then. A perusal of the custody certificate of the accused/petitioner would show that there is no other case of similar nature. 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. 01 month and 04 days.

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

(JASJIT SINGH BEDI)
JUDGE

March 06, 2025
Vinay

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