

**CRR-1053-2008**

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRR-1053-2008****Date of Decision:-25.02.2025****ROSHAN @ DIMPAL****.....Petitioner****VERSUS****STATE OF HARYANA****.....Respondent****CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Rahul Bansal, Amicus Curiae
for the Petitioner.

Mr. Vipul Sherwal, Asstt.A.G, Haryana.

*********JASJIT SINGH BEDI, J.**

The present revision petition has been filed impugning the judgment dated 24.05.2008 passed by the Additional Sessions Judge (Fast Track Court), Bhiwani whereby the appeal filed against the judgment of conviction and order of sentence dated 25.08.2006 passed by the Judicial Magistrate, 1st Class, Charkhi Dadri has been dismissed.

2. The FIR in the present case came to be registered on 12.01.1998. The judgment of conviction was passed on 25.08.2006 by the Judicial Magistrate, 1st Class, Charkhi Dadri. The appeal filed against the judgment of conviction was dismissed on 24.05.2008 by the Additional Sessions Judge (Fast Track Court), Bhiwani. The instant revision petition was filed on 02.06.2008 and has come up for final hearing now i.e. after a period of 27 years from the date of registration of the FIR.

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3. The brief facts of the prosecution case are that on 12.01.1998, Bijender Singh, PW1 alongwith his cousin Kuldeep son of Ramphal, Mahender son of Surta and Balbir Singh son of Manphool were going to Dadri from Chiriya, in a jeep bearing No. HR-35-A/742. The Jeep was being driven by the accused in a rash and negligent manner and when the driver of the jeep was over taking a truck in a rash and negligent manner, in the meantime a cyclist came from the opposite side. Then the driver turned the jeep sharply due to which his cousin Kuldeep fell down on the road and sustained injuries on his head. He succumbed to skull injuries at the spot. A request was made to take legal action against the accused.

4. On the basis of the aforesaid statement made by the complainant, the instant case registered. Site plan of the place of occurrence was prepared. The offending jeep was taken into Police Possession vide separate recovery memo. The accused was arrested. Statements of the witnesses were recorded under Section 161 Cr.P.C. After completion of all other necessary formalities, a challan was filed in the Court against the accused.

5. In support of its case the prosecution examined Bijender Singh son of Sukhbir Singh, complaint as PW1, Balbir son of Manphool as PW2, HC Attar Singh as PW3, ASI Dalip Singh as PW4, Ramphal Son of Panni Lal as PW5, Kuldeep son of Ranbir Singh as PW6, C. Giyan Singh, Mechanic as PW7, Mahender son of Surta as PW8 and Dr. Kundan Kumar as PW9.

6. The statement of the accused was recorded under Section 313



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Cr.P.C. wherein the accused pleaded false implication and denied all the allegations leveled against him. He examined Amer Singh as DW1 in his defence evidence.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the Court of Judicial Magistrate, 1st Class, Charkhi Dadri vide judgment and order of sentence dated 25.08.2006 as under:-

Offence Section	under	Sentence RI/SI	Fine	RI/SI in default of payment of fine
279 IPC		RI for 06 months	--	--
304-A IPC		RI for 01 year	Rs.1000/-	RI for 15 days

Both the sentences were ordered to run concurrently

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge (Fast Track Court), Bhiwani vide judgment dated 24.05.2008.

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 by this Court vide order dated 03.06.2008.

11. The counsel for the accused/petitioner contends that the judgments of conviction are based on conjectures and surmises. The identification of the accused has not been established as per law as no test identification parade was held. There was no evidence of rash and negligent driving on the part of the accused. In addition, he contends that keeping in

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view the fact that the occurrence was of the year 1998 and the case had come up for final hearing now after a gap of 27 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 filed a custody certificate of the accused/petitioner dated 25.02.2025 in the Court today, which is taken on record. He states that the offence stands established beyond reasonable doubt. There is sufficient evidence on record by way of the testimonies of PW1 and PW2 that it was the accused who was driving the vehicle in a rash and negligent manner causing the death of the deceased. He, therefore contends that the present petition was liable to be dismissed.

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

14. Though, in the present case Ex. PA does not mention the name of the accused and the prosecution did not conduct a test identification parade of the accused nevertheless, the identity of the accused has been established by the oral testimonies of PW1 and PW2. PW1 in his examination-in-chief as well as in his cross-examination has specifically stated that the offending vehicle was being driven by Roshan Lal at the time of the accident. PW2 in his cross-examination has also deposed that he knew the driver of the offending jeep because he was also having tempo. Moreover, Ex.PA states that the jeep bearing No.HR-35-A/742 was being driven by the sister's son (Bhanja) of Amer Singh son of Paridan. Amer Singh son of Paridan appeared as DW1 and admitted that accused Roshan

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Lal is his sister's son (Bhanja). Thus, the identity of the accused stands established beyond doubt.

15. The rash and negligent driving of the offending vehicle at the time of accident by the accused has also been duly proved by the evidence of PW1, PW2 and PW5. Further, Ex.PA also states that the offending vehicle was being driven by the accused negligently. It is also evident from the oral testimony of PW9 as well as vide Ex.PW9/A that Kuldeep died due to skull injuries in a road side accident. The case of the prosecution has also been duly corroborated by the oral testimony of the photographer, mechanic and Investigating Officer of the case.

16. In view of the above discussion, 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.

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



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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."*

18. Admittedly, the occurrence pertains to the year 1998 and as many as 27 years have passed ever since then. A perusal of his custody certificate would show that he does not have any criminal antecedents and is



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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.13 days.

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

(JASJIT SINGH BEDI)
JUDGE

25.02.2025

Jitesh

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