

2025:PHHC:010185



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

CRR-1189-2008(O&M)

Date of Decision:-23.01.2025

Nazar Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. L.S. Sidhu, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 30.05.2008 passed by Sessions Judge, Mansa whereby the appeal filed against the judgment of conviction and order of sentence dated 09.04.2007 passed by Judicial Magistrate Ist Class, Mansa has been dismissed.

2. The FIR in the present case came to be registered on 15.11.2000. The judgment of conviction was passed on 09.04.2007 by the Judicial Magistrate Ist Class, Mansa. The Appeal filed against the order of conviction was dismissed on 30.05.2008 by the Sessions Judge, Mansa. The instant revision petition was filed on 11.07.2008 and has come up for final hearing now i.e. after a period of 24 years from the date of registration of the FIR.

3. The brief facts of the prosecution story are that on 15.11.2000 Sunil Kumar son of Rajesh Kumar resident of Bhikhi, got recorded his statement with the ASI Harbhajan Singh that he ran a karyana shop. He had two brothers. He himself was the eldest and Munish Kumar and Gaindi were his younger brothers. On that day he alongwith his paternal uncle Pawan Kumar was going on scooter. Munish Kumar was going on his motorcycle make Yamaha bearing No.PB-13F-4859. When they were returning home Munish Kumar was going ahead of them. It was around at about 4.00 p.m. When they reached near the office of Nagar Panchayat, a truck bearing No. PAT-2235 at a very high speed, which was being driven in a rash and negligent manner, came from the opposite side and it was later found to be driven by Nazar Singh son of Gobind Singh resident of Budhlada. He drove the truck in a rash and negligent manner without blowing the horn and struck against the motorcycle of Munish Kumar who fell on the ground and suffered injuries on his head. The truck driver sped away along with the truck. The complainant and his uncle Pawan Kumar arranged for a vehicle and were taking Munish Kumar to Hospital, but he died on the way.

4. On the basis of the statement of the complainant the FIR was registered. The vehicles involved in the accident were taken into police possession. Site plan of the place of the accident was prepared. The accused was arrested. After completion of all other necessary formalities the challan was prepared and presented to the Court.

5. Finding a prima facie case, the accused was charged sheeted under section 279/304-A IPC, to which he pleaded not guilty and claimed Trial.

6. In order to prove its case the prosecution examined PW-1 Sunil Kumar son of Rajesh Kumar, PW-2 Pawan Kumar son of Shivan Chand,

PW-3 Rajinder Kumar son of Parkash Chand, PW-4 Dr. Kulwant Singh, PW-5 Mandip Kumar, PW-6 Mohinder Pal and PW-7 ASI Harbhajan Singh.

7. After closure of the evidence of the prosecution, the statement of the accused was recorded under section 313 CrPC, wherein he denied all the incriminating materials put to him. He denied that he caused any accident. He pleaded his innocence and opted to lead evidence in his defence, but thereafter closed the same without examining any witness.

8. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Mansa vide judgment and order of sentence dated 09.04.2007 as under:-

Offence under Section	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.500/-	RI for 02 Months

Both the aforesaid sentences were ordered to run concurrently.

9. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Sessions Judge, Mansa vide judgment dated 30.05.2008.

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 16.09.2008.

12. The counsel for the accused/petitioner contends that the judgments of conviction are based on conjectures and surmises. The evidence of PW-1 Sunil Kumar and PW-2 Pawan Kumar cannot be believed. There was no evidence of rash and negligent driving on the part of the accused/petitioner. No test identification parade was conducted and, therefore, it could not be said that the accused/petitioner had committed the

offence in question. 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 2000 and the case had come up for final hearing now after a gap of 24 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 22.01.2025 and the same is taken on record. He contends that the evidence on record was sufficient to establish the culpability of the petitioner. The prosecution witnesses had deposed as to the manner in which the occurrence had taken place. There were no discrepancies in their statements as has been sought to be argued. Therefore the present petition was liable to be dismissed.

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

15. From the perusal of the entire evidence produced record by the prosecution in the trial court, particularly the statement of PW-1 Sunil Kumar complainant/eye witness of the accident and PW-2 Pawan Kumar eye witness, it stands fully proved on record that on 15.11.2000 Sunil Kumar complainant along with his maternal uncle Pawan Kumar PW-2 was going on scooter, whereas Munish Kumar brother of Sunil Kumar was going on his motorcycle make Yamaha bearing No. PB-13-F-4859. They were returning to their home. At about 4.00 PM when they reached near the office of Nagar Panchayat, truck bearing No. PAT-2235 which was being driven by accused/petitioner Nazar Singh, rashly and negligently, at a very high speed, came from the opposite side and on the wrong side of the road and struck against the motorcycle of Munish Kumar, as a result of which, Munish

Kumar suffered injuries on his head. The driver of the truck i.e. accused/petitioner Nazar Singh sped away from the spot along with the truck. PW-2 Pawan Kumar knew the accused/petitioner earlier personally, so he identified him at the spot. The injured was taken to Civil Hospital, Mansa, but he was declared dead by the Civil Hospital authorities. The matter was reported to the Police by Sunil Kumar PW-1 on the same day. His statement was recorded at 7.30 PM on 15.11.2000, on the basis of which, FIR of this case Ex PA/2 was recorded. The dead body of deceased Munish Kumar was subjected to post mortem. PW-4 Dr. Kulwant Singh, Medical officer, who conducted the post-mortem examination on the dead body of Munish Kumar, opined that the cause of death in this case was due to head injuries/accidental injuries, which were ante-mortem in nature and were sufficient to cause death in the ordinary course of nature PW-7 ASI Harbhajan Singh proved the investigation part of this case He recorded the statement of Sunil Kumar PW-1, on the basis of which, FIR of this case Ex PA/2 was recorded. He prepared the rough site plan of the place of recovery Ex PA/4. He prepared the inquest report Ex PA/5 of deceased Munish Kumar, arrested the accused, took into possession the truck No. PAT-2235 into police possession, vide memo Ex. PA/6. He also took into police possession the route permit and driving licence of accused/petitioner Nazar Singh, vide memo Ex. PA/7. He also took into police possession the motorcycle of the deceased from the place of occurrence vide memo Ex. PB He also took into police possession the Registration Certificate of the motorcycle vide memo Ex. PC. He also took into police possession the blood stained clothes of the deceased vide memo Ex PD. PW-4 Dr Kulwant Singh proved the post-mortem report of the deceased Ex. PF and pictorial diagram showing the seats of injuries Ex. PG, PW-6 Mohinder Pal Singh,

Mechanic of PRTC proved the test report of the truck Ex. PW-6/A The accused did not lead any evidence in defence. Therefore it has rightly been held that the prosecution has fully proved its case that accused/petitioner Nazar Singh was driving the truck No. PAT-2235 rashly and negligently and he brought the same on the wrong side of the road and struck the motorcycle of Munish Kumar, as a result of which Munish Kumar died.

16. As regards not holding of a test identification parade PW-2 Pawan Kumar has categorically stated that he knew the accused/petitioner Nazar Singh personally previously. He has further deposed that the accused brought the truck on the wrong side of the road The accused was also identified by PW-1 Sunil Kumar and PW-2. Pawan Kumar in the court as the same person, who was driving the truck at the time of accident The name of the accused as well as the number of the truck do appear in the FIR Ex. PA/2 which was recorded immediately after the accident, because the accident took place on 15.11.2000 at about 4.00 PM and the FIR was registered at 7.30 PM on the same day ie. 15.11.2000. Therefore, there is no dispute regarding the identification of the accused. Hence, the test identification parade of the accused/petitioner from the PWs was not necessary.

17. As regards the contention that rash and negligent driving was not proved, it may be reiterated here that both the PWs i.e. PW-1 Sunil Kumar complainant/eye witness and PW-2 Pawan Kumar eye witness of the accident, have categorically stated that the accused/petitioner was driving the truck at a very high speed in rash and negligent manner, brought the truck on the wrong side of the road and then struck the motorcycle of Munish Kumar, as a result of which Munish Kumar died. Therefore, the

prosecution has fully proved the rash and negligent driving on the part of the accused.

18. In view of the aforementioned discussion, I find no infirmity in the judgment of conviction and therefore, the present petition stands dismissed.

19. 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.”*

20. Admittedly, the occurrence pertains to the year 2000 and as many as 24 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. 03 months and 20 days.

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

(JASJIT SINGH BEDI)
JUDGE

January 23, 2025
Vinay

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