

2025.PHHC.008549



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

CRR-1625-2008(O&M)

Date of Decision:-21.01.2025

Heera Lal.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. B.S. Jaswal, Advocate 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 28.07.2008 passed by Sessions Judge, Rupnagar whereby the appeal filed against the judgment of conviction and order of sentence dated 26.07.2007 passed by Sub Divisional Judicial Magistrate, Anandpur Sahib has been dismissed.

2. The FIR in the present case came to be registered on 27.05.2001. The judgment of conviction was passed on 26.07.2007 by the Sub Divisional Judicial Magistrate, Anandpur Sahib. The Appeal filed against the order of conviction was dismissed on 28.07.2008 by the Sessions Judge, Rupnagar. The instant revision petition was filed on 27.08.2008 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. The story of the prosecution in brief is that on 26.5.01 ASI Ram Sarup alongwith other police officials was on VVIP duty near the round about of Gurdwara Patalpuri when a passerby informed the police party regarding the occurrence of an accident near village Baruwal, GT road near Lambran Dhaba and the injured had been taken to CH Anandpur Sahib. ASI Ram Sarup along with other police officials reached CH Anandpur Sahib and after obtaining opinion of the doctor, recorded the statement of the injured/complainant Dilbagh Singh to the effect that he along with Bhajan Singh son of Telu Ram were going on a scooter bearing no. PB-16-0723 from Kiratpur Sahib towards their village and when they reached near Lambran Dhaba, a Van no. PB-16-0755 was going ahead of the scooter. In the mean time truck no. PB-11-5312 came from the opposite direction being driven in a rash and negligent manner and the said truck by coming on the wrong side struck against the van which was going ahead of their scooter and as a result the said van hit against the scooter and the complainant fell towards the left hand side, whereas Bhajan Singh fell towards right hand side. Bhajan Singh died at the spot. The driver of the van, Jasbir Singh also died at the spot and the persons sitting in the van suffered injuries. The complainant also received injures and the driver of the truck ran away after leaving the truck at the spot. On the statement of Dilbagh Singh the case was registered against Heera Lal accused and he was later on arrested on 1.6.01. The place of accident was got photographed, post mortem on the dead bodies of Bhajan Singh and Jasbir Singh was got conducted, site plan of the place of occurrence was prepared, the vehicles involved in the accident were taken into police possession and statements of witnesses were recorded. On the investigation being completed, challan was presented in the court for the

trial of the accused.

3. Finding a prima facie case under sections 279, 337, 338, 304-A and 427 IPC, the accused was charge sheeted to which he did not plead guilty and claimed trial.

4. To prove its case, the prosecution examined Sudharshan Singh PW1, Gurnam Singh PW2, Dilbagh Singh complainant PW3. Joginder Pal PW4, ASI Ram Sarup PW5. Dr. Swaranjit Singh PW6, Arya Ram PW7, IIC Keal Singh PW8, Jai Parkash PW9, Harbans Lal PW10. Rattan lal PW11, Baldev Singh PW12.

5. On the evidence of the prosecution being closed. statement of the accused under section 313 Cr.P.C was recorded in which he denied all the incriminating circumstances appearing in evidence against him and pleaded his innocence and false implication.

6. Based on the evidence led, the accused came to be convicted and sentenced by the court of Sub Divisional Judicial Magistrate, Anandpur Sahib vide judgment and order of sentence dated 26.07.2007 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
304-A IPC	RI for 01 Year	Rs.2000/-	SI for 02 Months
279 IPC	RI for 03 Months	-	-
337 IPC	RI for 02 Months	-	-
338 IPC	RI for 06 Months	Rs.1000/-	SI for 02 Months
427 IPC	RI for 03 Months	-	-

6. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Sessions Judge, Rupnagar vide judgment dated 28.07.2008.

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

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

22.09.2008.

9. The counsel for the accused/petitioner contends that the occurrence took place on 26.05.2001. Then accused/petitioner came to be arrested on 01.06.2001. He had not been named in the FIR and no test identification parade was conducted. In fact the truck was being driven by one Sham Lal and not the accused/petitioner. The injured named in the FIR was one Gurbux but it was in fact Dilbagh Singh who had been injured. This creates a doubt in the case of the prosecution. Further there were material discrepancies in the statements of the prosecution witnesses. He therefore, contends that the impugned judgments were liable to be set aside and accused/petitioner was liable to be acquitted of the charges framed against him.

10. The Counsel for the State on the other hand has filed a custody certificate of the accused/petitioner dated 19.01.2025 and the same is taken on record. He contends that the injured Harbans Lal PW-10 duly identified the accused/petitioner. One Rattan Lal was examined as PW-11 and he being the owner of the offending truck stated that the accused/petitioner who had been employed as driver, had caused the accident and had been produced by this witness before the police on 01.06.2001. Therefore, the case against the accused/petitioner stands established beyond reasonable doubt and it was a case where two persons had died in the accident. Resultantly, the present petition was liable to be dismissed.

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

12. Admittedly the accident in question has taken place on 26.5.2001 near Lambran Dhaba GT road near village Baruwat in which two persons died at the spot and Dilbagh Singh complainant and another

passenger of the van sustained injuries. The prosecution has examined injured complainant Dilbagh Singh PW3, Harbans Lal another injured as PW10 and owner of the truck Rattan Lal as PW-11. PW-10 & PW-11 have identified the accused. Rattan Lal PW-11 the owner of the truck stated categorically that the accused/petitioner was the driver of the offending vehicle and the accused/petitioner was produced before the police by him on 01.06.2007. The accused/petitioner has failed to lead any evidence regarding his false implication. Keeping in view the fact that the accused/petitioner was produced before the police by the owner of the truck i.e. Rattan Lal PW-11 himself, no test identification parade is required. The Hon'ble Supreme Court in ***Ravi Kapur Versus State of Rajasthan, 2012(4) R.C.R. (Criminal) 245***, has held as under:-

“32. In the present case, the accused had been seen by PW2 and PW4. In addition, they had also stated that the passersby had informed them that the accused was driving the bus and, in fact, he was the owner of the bus. One fact of this statement is established that the bus in question was given on superdari to the accused. It is also stated by these persons that after they had seen the accused, he had run away from the place where he parked the vehicle. These witnesses also identified the accused in the Court. It is not the case of the accused before us that he had been shown to the witnesses prior to his being identified in the Court. The Court identification itself is a good identification in the eyes of law. It is not always necessary that it must be preceded by the test identification parade. It will always depend upon the facts and circumstances of a given case. In one case, it may not even be necessary to hold the test identification parade while in the other, it may be essential to do so. Thus, no straightjacket formula can be stated in this regard. We may refer to a judgment of this Court in the case of [Shyamal Ghosh v. State of West Bengal](#) [2012 (6) SCALE 381] wherein this Court has held that [the Code](#) of Criminal Procedure, 1973 (for short “[Criminal Procedure Code](#)”) does not oblige the investigating agency to necessarily hold the test identification parade without exception. The Court held as under :

“55. On behalf of accused Shyamal, it was also contended that despite the identification parade being held, he was not identified by the witnesses and also that the identification parade had been held after undue delay and even when details about the incident had already been telecasted on the television. Thus, the Court should not rely upon the identification of the accused persons as the persons involved in the commission of the crime and they should be given the benefit of doubt.

56. The whole idea of a Test Identification Parade is that witnesses who claim to have seen the culprits at the time of occurrence are to identify them from the midst of other persons without any aid or any other source. The test is done to check upon their veracity. In other words, the main object of holding an identification parade, during the investigation stage, is to test the memory of the witnesses based upon first impression and also to enable the prosecution to decide whether all or any of them could be cited as eyewitnesses of the crime.

*57. It is equally correct that the [Criminal Procedure Code](#) does not oblige the investigating agency to necessarily hold the Test Identification Parade. Failure to hold the test identification parade while in police custody, does not by itself render the evidence of identification in court inadmissible or unacceptable. There have been numerous cases where the accused is identified by the witnesses in the court for the first time. One of the views taken is that identification in court for the first time alone may not form the basis of conviction, but this is not an absolute rule. The purpose of the Test Identification Parade is to test and strengthen the trustworthiness of that evidence. It is accordingly considered a safe rule of prudence to generally look for corroboration of the sworn testimony of the witnesses in court as to the identity of the accused who are strangers to them, in the form of earlier identification proceedings. This rule of prudence is, however subjected to exceptions. Reference can be made to [Munshi Singh Gautam v. State of M.P.](#) 2005(1) RCR (Criminal) 361: 2005(1) Apex Criminal 202:[(2005)9 SCC 631], *Sheo Shankar Singh v State of Jharkhand and Anr.*, 2011(2) RCR*

(Criminal) 634 : 2011(2) Recent Apex Judgments (R.A.J.) 452: [(2011)3 SCC 654].

58. Identification Parade is a tool of investigation and is used primarily to strengthen the case of the prosecution on the one hand and to make doubly sure that persons named accused in the case are actually the culprits. The Identification Parade primarily belongs to the stage of investigation by the police. The fact that a particular witness has been able to identify the accused at an identification parade is only a circumstance corroborative of the identification in court. Thus, it is only a relevant consideration which may be examined by the court in view of other attendant circumstances and corroborative evidence with reference to the facts of a given case.”

13. The FIR in this case was promptly lodged on the statement of Dilbagh Singh injured complainant (PW3) and Dr. Swaranjit Singh PW6 has also mentioned the name of the injured as Dilbagh Singh in his MLR report Ex. PW6-D. Therefore, there is no force in the contention raised on behalf of learned counsel for the accused/petitioner that the name of the injured has been wrongly mentioned in the ruqa Ex. PW-6/C. Therefore, the question of the false implication of the petitioner does not arise.

14. The submission made by learned counsel for the accused/petitioner that there are discrepancies in the statements of the witnesses has also no force as the identity of the accused/petitioner stands fully proved on record and it is fully established on record that the accused/petitioner was driving the truck in question at the time of accident in a rash and negligent manner which resulted in the death of two persons and injuries to two persons. This fact is established from the statement of PW-6 Dr. Swaranjit Singh as well.

15. In view of the aforementioned discussion, I find no merit in the present petition the same stands dismissed.

16. Order dated 22.09.2008 suspending sentence of the accused/petitioner stands vacated.

(JASJIT SINGH BEDI)
JUDGE

January 21, 2025
Vinay

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