

2025:PHHC:057633



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

CRR-2001-2008(O&M)

Date of Decision:-02.05.2025

Ravinder Singh.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. H.S. Randhawa, Advocate
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 08.04.2008 passed by Additional Sessions Judge Rewari whereby the appeal filed against the judgment of conviction and order of sentence dated 24/25.04.2006 passed by Judicial Magistrate Ist Class, Rewari has been dismissed.

2. The FIR in the present case came to be registered on 30.06.1999. The judgment of conviction/sentence was passed on 24/25.04.2006 by the Judicial Magistrate Ist Class, Rewari. The Appeal filed against the order of conviction was dismissed on 08.04.2008 by the Additional Sessions Judge, Rewari. The instant revision petition was filed on 25.09.2008 and has come up for final hearing now i.e. after a period of more than 25 years from the date of registration of the FIR.

3. In brief, the facts of the prosecution case are that on 30.6.99, when HC Mahabir Singh alongwith Constable Satbir Singh and Constable Suresh was present on the Delhi road on routine patrolling duty a person came from Rewari side and disclosed his name as Dharampal son of Sultan Singh. He stated that he was a resident of Khalipuri and on that morning, after completing his work at Rewari, he was returning back to his house on his cycle. When he reached near Gupta Farm, a truck came at a high speed and was being driven in a rash and negligent manner. The truck driver came on the wrong side and struck a tractor. He reached the site but the truck driver ran away from there towards the fields. He found two persons dead at the spot, one of them was Sumer Singh and another was Gajraj. Sumer was his uncle's son and Gajraj was also known to him. The truck was bearing registration No.HRU-6653. He stated that he had come to report the matter and urged that the truck driver be arrested. On this information, FIR under Sections 279, 304-A IPC was lodged in the police station Sadar Rewari. The accused was arrested by the police on 3.10.99 and was released on bail. Both the vehicles involved in the accident were got mechanically examined. Site plan was prepared. Post mortem reports of deceased Sumer and Gajraj were obtained. Statements of witnesses were recorded under Section 161 Cr.P.C. After completion of the investigation, report u/s 173 Cr.P.C. was prepared and presented before the court for trial of the accused.

4. On finding a prima facie case, the accused was charge-sheeted for the offences punishable under Sections 279 & 304-A IPC to which he pleaded not guilty and claimed trial.

5. In support of its case, the prosecution examined Dr. R.A. Gupta, M.O. who conducted the postmortem examination on the dead bodies of Sumer and Gajraj as PW1. He proved the post-mortem reports as Ex.PW1/A

and Ex.PW1/B. HC Satbir Singh examined as PW2 proved recovery memo vide which RC and Insurance certificate of truck No.HRU-6653 were taken into police possession, as Ex.PW2/A. Shyam Kishore Motor Mechanic was examined as PW3, who proved the mechanical report of the offending truck as Ex.PW-3/A and the tractor as Ex.PW-3/B. Constable Suresh Kumar was examined as PW-4, who proved the recovery memo as Ex.PW-4/A vide which the truck was taken into possession. Complainant Dharampal was examined as PW-5 and corroborated the prosecution case. He also proved his statement Ex.PW-5/A upon which the FIR was registered. Chiranji Lal (Retd. Head Master) was examined as PW-6, who identified the dead bodies of Sumer Singh and Gajraj. SI Randhir Singh was examined as PW-7, who deposed that he collected the photographs of the place of incident produced by Rajesh Kumar of Ashoka Photo Studio, Rewari and attached with the challan. PW-8 Vijay Pal, brother of deceased Gajraj, identified the dead body of Gajraj and proved his statement Ex PW-8/A and receipt Ex.PW-8/B. Bharat Singh Inspector was examined as PW-9, who deposed that after completion of the investigation, he prepared the challan and identified the signature on it Shyam Sunder, owner of the truck was examined as PW-10, who took the truck on superdari from the court and proved the identity of the driver as Ravinder accused. Rajesh Kumar Photographer was examined as PW-11, who deposed that on asking of the police, he took five photographs of the place of incident and handed over the same to the police on 20.07.99.

6. The statement of the accused was recorded under Section 313 Cr.P.C. and all the incriminating material was put to the accused. He pleaded false implication and claimed trial.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Rewari

vide judgment and order of sentence dated 24/25.04.2006 as under:-

Offence Section	under	Sentence	Fine	RI/SI in default of payment of fine
Section IPC	304-A	01 Year 06 Months	Rs.3,000/-	SI for 01 Month

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Rewari vide judgment dated 08.04.2008.

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 vide order dated 04.10.2008.

11. The learned Amicus Curiae for the petitioner contends that the identity of the accused/petitioner as being the driver of the offending vehicle has not been established as per law. No test identification parade was held and his first time identification in the court would have little evidentiary value. Though the allegations have been leveled that the offending vehicle was being driven at a high speed, the complainant Dharampal PW-5 did not state that the same was being driven in a rash and negligent manner. The IO has not been examined in the instant case, therefore, the site plan remains unproved. He thus contends that the impugned judgments are liable to be set aside and the accused be acquitted of the charges framed against him. 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 more than 25 years, the accused 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 29.04.2025. He contends that the offence stands established beyond reasonable doubt. The identification of the accused as the driver of the offending vehicle being driven in a rash and negligent manner is apparent from the evidence available on record including that of the complainant PW-5 Dharampal and PW-10 Shyam Sunder, the owner of the truck. Merely because the IO was not examined would have little impact on the case of the prosecution in the present factual scenario. He, therefore, contends that as the offence stands established beyond doubt, the present petition is liable to be dismissed. As regards the prayer for probation or reduction of sentence, he contends that 02 lives were lost in the occurrence and the accused did not deserve any sympathy.

13. I have heard counsel for the parties.

14. There is no dispute about the unnatural death of Sumer and Gajraj which has been fully proved by PW-1 Dr. R.A. Gupta who had conducted the post-mortem examination and proved his reports Ex.PW-1/A and Ex. PW-1/B pertaining to Sumer and Gajraj respectively. PW-6 identified the dead bodies of Sumer and Gajraj and PW-8 identified the dead body of Gajraj, his brother. Thus, from the testimony of these witnesses i.e. PW-1, PW-6 and PW-8, the death of Sumer and Gajraj has been proved. It has also come in the testimony of PW-1 that both these persons died due to the injuries suffered by them, which were ante-mortem in nature and sufficient to cause death.

15. From the testimonies of PW-2 Satbir Singh HC, PW-3 Shyam Kishore, Motor Mechanic and PW-10 Shyam Sunder, it is proved that in the said accident, a truck bearing registration No. HRU-6653 and a tractor

bearing registration No.RJB-3239 were involved. The truck was taken into possession vide recovery memo Ex. PW2/A by PW-2 Satbir Singh HC, mechanically examined by PW-3 Shyam Kishore Motor Mechanic vide his report Ex.PW3/A. The truck bearing registration No.HRU-6653 was taken on superdari by PW-10 Shyam Sunder being owner. Thus, it is apparent that on 30.6.99, an accident had taken place between the truck and the tractor.

16. It has come in the testimony of PW-5 Dharampal that the truck driver drove the truck at a high speed on the wrong side and had a head on collision. Consequently, the driver of the tractor and the person sitting on the tractor died on the spot. This testimony of PW5 Dharampal is strengthened from the report of the Motor Mechanic PW-3 Shyam Kishore. It is clear from the report Ex.PW-3/A and Ex.PW-3/B that the truck had suffered extensive damage i.e. its bumper was totally damaged. Both headlights were broken. The steering was found broken. One of the arms of steering was found to be bent. The wheel of the truck was also bent. The tractor was totally damaged to the extent that it was not fit to be taken away from the spot. Thus, it clearly shows that the offending vehicle was at a high speed at the time of the accident.

17. PW-5 Dharampal stated that the truck driver drove the truck on the wrong side and at a high speed. These two facts i.e. high speed and driving on the wrong side clearly shows that the driver of the truck was rash and negligent. Had the truck been driven on the correct side of the road at a reasonable speed, then the accident ought not have taken place.

18. As regards the identity of the accused, PW-5 identified the accused in the court. When his testimony is read alongwith his statement on 30.6.99, it appears that he had not seen the accused closely. However, the identity of the accused stands proved from the testimony of PW-10 Shyam

Sunder i.e. the owner of the vehicle who had taken it on Superdari. This witness deposed that on the day of incident, the accused was the driver of the said truck and no evidence was brought on record by the accused to rebut this evidence. Further, the PW-10 Shyam Sunder being the owner of the truck quite apparently knew as to who was the driver of the said truck and he deposed accordingly. Thus, from the testimony of PW-10 Shyam Sunder read with the testimony of PW-5 Dharampal, it is clearly established that on the fateful day, the accused was the driver of the offending truck bearing registration No.HRU-6653.

19. Further, the Hon'ble Supreme Court in *Ravi Kapur Versus State of Rajasthan, 2012(4) R.C.R. (Criminal) 245*, held that not holding of a test identification parade is not fatal to the case of the prosecution. The relevant extract is as under 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."

33. In our considered view, it was not necessary to hold the test identification parade of the appellant for two reasons. Firstly, the appellant was already known to the passersby who had recognized him while driving the bus and had stated his name and, secondly, he was duly seen, though for a short but reasonable period, when after parking the bus, he got down from the bus and ran away .

[Emphasis supplied]

20. Merely because that IO of the case was not examined and the site plan was not proved will not affect the prosecution case. From the oral testimony of PW-5 Dharampal and other police officials, who had reached the site of the incident and the examination of the vehicles involved, the manner in which the accident took place stands duly established.

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

23. 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.”

24. It may be reiterated here that 02 persons have lost their lives. However, the custody certificate would reveal that the petitioner does not have criminal antecedents. Therefore, in the peculiar facts and circumstances of the case including the fact that the occurrence pertains to the year 1999 and as many as 25 years have elapsed ever since then, subject to the payment of the fine as imposed and payment of Rs.1 Lac each as compensation to be paid to the legal heirs of the deceased, the sentence of the accused/petitioner is reduced to a period of 01 year.

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

26. A copy of this judgment be supplied to the Senior Superintendent of Police, Rewari for further necessary action.

(JASJIT SINGH BEDI)
JUDGE

May 02, 2025
Vinay

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