

**CRR-2101-2008 (O&M)**

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRR-2101-2008(O&M)****Date of Decision:-16.01.2025****DARSHAN SINGH****.....Petitioner****VERSUS****STATE OF PUNJAB****.....Respondent****CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Ms. Dheerja, Amicus Curiae
for the Petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 24.09.2008 passed by the Additional Sessions Judge (Fast Track Court), Bathinda whereby the appeal filed against the judgment of conviction and order of sentence dated 02.07.2008 passed by the Judicial Magistrate, 1st Class, Bathinda has been dismissed.

2. Since Ms. Ruchi Sekhri, Amicus Curiae was not come present, she is discharged as Amicus Curiae and Ms. Dheerja, Advocate is appointed as Amicus Curiae on behalf of the petitioner.

3. The FIR in the present case came to be registered on 11.08.2002. The judgment of conviction was passed on 02.07.2008 by the Judicial Magistrate, 1st Class, Bathinda. The appeal filed against the order of conviction was dismissed on 24.09.2008 by the Additional Sessions Judge (Fast Track Court), Bathinda. The instant revision petition was filed on

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04.10.2008 and has come up for final hearing now i.e. after a period of more than 22 years from the date of registration of the FIR.

4. In brief, the facts of the prosecution as emerging from the report submitted by the prosecution under Section 173 Cr.P.C. was that on 11.08.2002 an intimation had been received from the Incharge, Police Post, Civil Lines, Bathinda that Pintu son of Parshottam Kumar had died due to the accident. On that ASI Balwinder Singh alongwith police officials went to the Civil Hospital, Bathinda where Parshotamm Kumar met the police party and got recorded his statement that he was a resident of Janta Nagar Bathinda. He was working in Thermal Plant, Bathinda having two daughters and three sons. His son Ravinder Kumar alias Pintu was aged about 14 years. He was studying in the 5th Standard and he used to go to Dera Sucha Sauda, Sirsa situated at Bathinda-Malout G.T. Road (Namcharcha Ghar) for the purpose of "Seva". On 11.08.2002 he alongwith his son Ravinder Kumar and neighbour Krishan Kumar went to the Dera for the purpose of "Seva" and he was sitting on the bicycle of Krishan Kumar and his son Ravinder Kumar was following them. When they were returning for their home at about 5.30 p.m. and had reached near the electricity grid, then a bus bearing No.PB-11F-9702 which was driven by Darshan Singh came from the behind driven at a high speed and negligently struck the bicycle of Ravinder Kumar without blowing any horn. His son Ravinder Kumar fell down on the road and received injuries on his head as well as on other parts of the body. The driver of the bus ran away from the spot alongwith the bus. After arranging a vehicle he took his son to the hospital. When they reached near the gate of

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the hospital his son died. The accident took place due to the rash and negligent driving of the driver. His statement was recorded which was sent to the police station. The case was registered. The post mortem of the deceased was got conducted. The cycle as well as the bus in question were also taken into possession. Photographs were also taken. The bus in question was also got mechanically tested. The statements of the witnesses were recorded. After completion of investigation and other formalities, the challan was presented in the Court.

5. Finding a *prima facie* case, chargesheet under Section 279, 304-A IPC was served upon the accused/petitioner, the then JMIC, Bathinda vide order dated 14.11.2002 to which he pleaded not guilty and claimed trial. Thereafter, the prosecution was called to lead evidence.

6. In order to prove its case, the prosecution examined PW-1 Parshotam Kumar complainant who deposed as per the case of the prosecution. He proved on record his statement Ex.PA. PW-2 Krishan Kumar eye-witness and also deposed as per the case of the prosecution and corroborated the statement of PW-1. PW-3 C. Sandip Kumar got the bus in question mechanically tested and proved on record his test report Ex.PB. PW3-Ashok Kumar photographer took the photographs and proved on record the photographs Ex.P1 to Ex.P3 and negatives Ex.P4 to Ex. P6. PW4 was Harbans Singh Inspector PRTC. He proved that on 11.08.2002 the bus in question as per record was being driven by Darshan Singh. He also proved on record the certified copy of duty roster Ex.PW4/A. PW-5 was Dr.

I.B. Aggarwal, Asstt. Civil Surgeon, Bathinda who had conducted the post



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mortem on the dead body of deceased Ravinder Kumar alias Pintu and found the following injuries:-

- 1. Brownish abrasion 8 cm x 6 cm present on the top shoulder joint.*
- 2. Brownish abrasion 4 cm x 2 cm present near the lateral angle of left clavicle area.*
- 3. Abrasion 3.5 cm x 2.5 cm present on the back of left elbow joint.*
- 4. Abrasion 10 cm x 3 cm present on the left lower lateral side of chest, near the lower ribs. On dissection under lying last two ribs were found fractured. On further dissection, spleen was found injured and abdominal cavity was full of blood.*
- 5. Contusion 4 cm x 3 cm present on left parietal area of head. On dissection clotted blood was found under the skin. Underlying bone was found fracture. Clotted blood was present in cranial cavity. Brain and membranes were found lacerated.*

He has also proved on record the carbon copy of post mortem report Ex.PW5/A.

The prosecution also examined PW6 SI Balwinder Singh who was the Investigating Officer of this case. He proved on record intimation Ex.PW6/A, his endorsement Ex.PW6/B on statement Ex.PA, FIR Ex.PW6/D, Inquest Report Ex.PW6/G, recovery memo Ex.PW6/H vide which police papers and belongings of the deceased were taken into possession, recovery memo Ex.PW6/I vide which cycle was take into possession, recovery memo Ex.PW6/K vide which bus in question alongwith the RC was taken into possession, site plan Ex.PW6/J, personal search memo of accused Ex.PW6/L, memo regarding grounds of arrest Ex.PW6/M.

PWs HC Kundan Lal, HC Gurtej Singh and Sukhdev Singh were given up by APP as unnecessary. Thereafter, the APP closed the prosecution evidence.



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7. After closure of the prosecution evidence, the statement of the accused was recorded under Section 313 Cr.P.C. in which all the incriminating evidence appearing against the accused was put to him. He denied the same and claimed his false implication in this case. He took the plea that the bus No.PB-11F-9702 was allotted to driver Jora Singh and the record produced against him was forged and fabricated. He had not caused any accident. A false case had been planted against him. However, the accused did not lead any evidence in his defence and closed the same.

8. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the Court of Judicial Magistrate, 1st Class, Bathinda vide judgment and order of sentence dated 02.07.2008 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.1000/-	RI for 02 months
279 IPC	RI for 06 months	--	--

Both the sentences were ordered to run concurrently

9. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge (Fast Track Court), Bathinda vide judgment dated 24.09.2008.

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 by this Court vide order dated 23.10.2008.

12. The counsel for the accused/petitioner contends that his identity

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has not been established as per law. No test identification parade was ever conducted and first-time identification in the Court had little evidentiary value. There were material discrepancies in the statements of the prosecution witnesses, the benefit of which was to accrue to the accused/petitioner. 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 2002 and the case had come up for final hearing now after a gap of 22 years, the accused/petitioner may be released on probation subject to payment of compensation.

13. The learned counsel for the State, on the other hand, has filed a custody certificate of the accused/petitioner dated 15.01.2025 and the same is taken on record. He contends that the evidence on record was sufficient to establish the culpability of the accused/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. It cannot be disputed that Ravinder Kumar @ Pintu has died in a roadside accident caused by bus bearing No.PB-11F-9702, which was driven in a rash and negligent manner by its driver. The cause of death has also been proved by Dr. I.B. Aggarwal.

It is not disputed that the bus has been recovered from the spot.

It is also not disputed that the test identification parade of the

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accused/petitioner has not been conducted. Ex.P1 to Ex. P3 are the photographs of the bus in question and Ex.P4 to Ex.P6 are the negatives. Ex.PW-4/A is the duty roster dated 11.08.2002 i.e. pertaining to the fateful day. Ex.PW-/B * Ex.PW4-C are the yard control register and Ex.PW-4/D is the RC of the bus, which concededly belongs to PRTC. The prosecution has examined PW-4/Harbans Lal, Inspector of PRTC Depot, Bathinda who has brought the relevant register regarding the bus in question and has proved that Darshan Singh-accused/petitioner bearing driver No.F-210 was on the duty on the said bus and it had gone from Bathinda to Abohar and was to return from Abohar to Bathinda. It was also reported that due to the accident, the bus did not return. From the evidence, it is clear that on the fateful day, the bus in question was being driven by non-else but the accused/petitioner. If he was on leave, the leave application should have been proved or if he was on duty somewhere else, then his other duty roster should have been proved. However, there is no such evidence on record. Accordingly, even if the test identification parade of the accused/petitioner has not been conducted and the accused/petitioner has been identified before this Court for the first time, it is of no consequence. Passersby were not supposed to know the drivers of the vehicle passing by and if all of a sudden, the bus in question struck against Ravinder Kumar @ Pinto resulting into his death, then it would be absurd to expect that the complainant ought to have known the name of the driver.

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.



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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 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*



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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 2002 and as many as 22 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. 06 days.

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

(JASJIT SINGH BEDI)
JUDGE

January 16, 2024
Jitesh

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