

CRR-2319-2008 (O & M)

2025:PHHC:077607



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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(204)

**CRR-2319-2008 (O&M)
Date of Decision: 02.07.2025**

Davinder Singh

... .Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Pratap Singh Gill, Advocate as Amicus Curiae
with Ms. Sapna Bali, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 15.10.2008 passed by the Additional Sessions Judge, Fast Track Court, Ludhiana whereby the appeal filed against the judgment of conviction and order of sentence dated 17.07.2007 passed by the Chief Judicial Magistrate, Ludhiana has been dismissed.

2. The FIR in the present case came to be registered on 11.08.1997. The judgment of conviction and order of sentence was passed on 17.07.2007 by the Chief Judicial Magistrate, Ludhiana. The Appeal filed against the judgment of conviction and order of sentence was dismissed on 15.10.2008. The instant revision petition was filed on



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31.10.2008 and has come up for final hearing now i.e. after a period of 28 years from the date of registration of the FIR.

3. Briefly stated, the case of the prosecution is that on 11.08.1997, the complainant Resham Lal Puri son of Lachhman Puri resident of Mana Mao, Distt. Peothan, Nepal, now residing at 166, Kailash Nagar, street No.1, P.S. Focal Point, Ludhiana made a statement to the effect that on that day, he alongwith his nephew Basant Raj, Pandit son of Ram Parshad Pandit was going from Cancer Chowk towards Sherpur Market. Both of them were on their bi-cycles. His nephew was a little ahead of him. When they reached at the end of the street of Kailash Nagar, at about 6:30 p.m., a Swaraj Mazda tempo bearing No.PB-10-U-9467 came from the back side at a very fast speed. The said vehicle was being driven in negligent manner and the same hit the bi-cycle of his nephew Basant Raj Pandit without blowing any horn. As a result of the said accident, the bi-cycle of his nephew Basant Raj Pandit had fallen on one side and his nephew Basant Raj Pandit had been over run by the tyres of the said Tempo who died at the spot. The driver of the offending vehicle had fled away after leaving the vehicle on the spot. He could identify him if produced before him. The accident had occurred due to the rash and negligent driving of the said driver. On the basis of said statement, FIR No.159 dated 11.08.1997 under Sections 279/304-A of the Indian Penal Code was registered at P.S. Focal Point, Ludhiana.



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4. During course of investigation, the Investigating Officer visited the place of occurrence and prepared the Inquest report of the dead body. The post mortem examination of the dead body was also got conducted. Rough site plan of the place of occurrence was prepared. The photographs of the site in question were taken. The vehicles were taken into possession at the spot. The tempo was got mechanically tested. The accused was arrested and was released on bail. Statements of the witnesses were recorded under section 161 of the Cr.P.C. The accused was arrested and was released on bail. On completion of investigation, the challan was presented before the Court.

5. On finding a prima facie case, charge under section 304-A of the Indian Penal Code was framed against the accused on 21.02.1998, to which he pleaded not guilty and claimed for trial.

6. In order to bring home the guilt against the accused, the prosecution examined PW1/Ravinder Pal Singh, PW2/C-II Teja Singh, PW3/ASI Surjit Singh, PW4/Resham Lal, PW5/Jagdev Singh, Junior Asstt. PW6/Kulbir Singh, Photographer and thereafter, the evidence of the prosecution was closed.

7. On the closure of evidence of the prosecution, the statement of the accused was recorded under section 313 of the Cr.P.C. wherein all the incriminating circumstances appearing in the prosecution evidence were put to the accused who denied the same and pleaded false implication and innocence. No evidence in defence was reproduced by the accused.



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8. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of the Chief Judicial Magistrate, Ludhiana vide judgment of conviction and order of sentence dated 17.07.2007 as under:-

Offence under Section	Sentence RI	Fine	RI in default of payment of fine
304-A IPC	RI for 01 year	Rs.1,000/-	30 days

9. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Fast Track Court, Ludhiana vide judgment dated 15.10.2008.

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

11. During the pendency of the present revision petition, the sentence of the accused-petitioner was suspended by this Court vide order dated 07.01.2009.

12. The learned counsel for the accused-petitioner contend that the prosecution has not been able to prove its case. The post mortem report of the deceased has not been proved. There is no evidence to show that the deceased had died on account of the injuries allegedly received by him in the accident. They further contend that the case of the prosecution is based on the sole testimony of the complainant. The accused was not previously known to the complainant and nothing is mentioned regarding the identity of the tempo driver in the statement made by the complainant to the police. Therefore, the identification of the accused by the complainant in the Court



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has not got much evidentiary value. Despite the occurrence having taken place in public, no independent witness has been cited or examined by the prosecution. As such, the impugned judgments are liable to be set aside and the accused be acquitted of the charges framed against him. In addition, they contend 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 1997 and the case had come up for final hearing now after a gap of almost 28 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.

13. The Counsel for the State on the other hand has placed on record the custody certificate dated 12.05.2025, as per which the accused-petitioner has undergone 02 months and 25 days out of his substantive sentence. He contends that the prosecution witnesses are clear and consistent in material particulars as to how the occurrence took place. No enmity of the said prosecution witnesses has been established with the accused, and therefore, there is no question of his false implication. He thus contends that no fault can be found with the impugned judgments and the present revision petition is liable to be dismissed.

14. I have heard learned counsel for the parties.

15. There is ample evidence on the file to prove that the accident had taken place due to rash and negligent driving of the accused.



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PW4/Resham Lal-complainant made the statement to the police immediately after the occurrence. He stated that the driver of the tempo was seen by him while running away from the spot and he could identify him. As per the statement of the Investigating Officer, the driver of the tempo was identified by the complainant on 25.08.1997 and the accused was arrested on the identification of the complainant. When the complainant was having sufficient time and opportunity to see the accused at the time of the occurrence, the statement of the complainant with regard to the identification of the accused cannot be disbelieved. Therefore, the statement of the complainant is sufficient to prove the identity of the accused.

16. The bi-cycle of deceased Basant Raj Pandit was hit by the tempo driven by the accused from the back side. Therefore, the evidence shows that the accused was not in a position to control his vehicle and he struck the same into the bi-cycle going ahead of him. Under these circumstances, there is no escape from the conclusion that the accident had occurred due to the rash and negligent driving of the accused.

17. So far as the non-examination of the Medical Officer who conducted the post mortem on the dead body is concerned, the same is not material. In the instant case, the deceased had died on the spot immediately after the accident. Therefore, it is clear that the deceased had died on account of the injuries received in the accident. Had there been any time gap in the accident and the death of deceased Basant Raj Pandit then the examination of the Medical Officer would have become essential to prove



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the nexus between the accidental injuries and the cause of the death of Basant Raj Pandit. But in the present case, non-examination of the Medical Officer does not affect the case of the prosecution. Even otherwise, at no stage was any complaint made by the accused to the senior officials regarding the deceased having died on account of some other factor and not the accident.

18. 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.

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



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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*



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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 1997 and as many as almost 28 years have passed ever since then. A perusal of the custody certificate of the accused-petitioner 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.1,00,000/- 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. 02 months and 25 days.

21. The present revision petition stands disposed of in the above terms alongwith the pending applications, if any.

(JASJIT SINGH BEDI)
JUDGE

July 02, 2025
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No